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I. SOCIO-ECONOMIC ASPECTS

1. The Republic of Bolivia, founded in 1825, lies at the geographic centre of South America. It has borders with Brazil to the north and east, with Paraguay to the south-east, with Argentina to the south, with Chile to the south-west and with Peru to the west. It has been landlocked since the Pacific War of 1879. It covers an area of 1,098,581 sq. km and its three principal geographic zones are the high plateau or Altiplano, which covers 16% of the national territory and rises to heights of between 3500 and 5000 m above sea level, the valleys, which comprise 14% of the territory and lie between 1500 and 300 m, and the region of plains and tropical forests, which makes up the remaining 70% of the country.

2. According to the census taken in 1992, Bolivia has a population of 6,420,792, of whom 50.6% are women and 49.4% men. The country has a youthful demographic structure, 42% of the population being less than 15 years of age and only 4% over 65. The population density is 5.8 per sq. km.

3. The main language spoken in Bolivia is Spanish. Between 1976 and 1992 the proportion of Spanish speakers increased by 10.9%, from 78.8% to 87.4% of the population over the age of six. The other languages spoken, in order of importance, include Quechua with 34.3%, despite a slight decline between censuses, and Aymara with 23.5%. Foreign languages account for 3.1%, Guarani 1.0% and the other native languages 0.6%.

4. Town dwellers represent 57.5% and country dwellers 42.5% of the population. Up to 1976 the population of Bolivia was preponderantly rural. There followed a period of intense urbanization with the urban area increasing by 92% while the rural population grew by only 1.4%. However, this urbanization process did not take the form of a gradual transition from an agrarian to an industrialized economy but involved the breakdown of the traditional agrarian structures, loss of productivity, very low incomes and poverty, in circumstances which led to an accelerated process of immigration from the countryside into the cities where people are crowded into large peripheral slum areas with serious implications for employment, incomes and the urban sanitation services. Thus, most of the population is concentrated in the Departments of La Paz, Cochabamba and Santa Cruz, where 68% of Bolivians live.

5. The country's most serious problem is the scale and impact of poverty. For the country as a whole, the proportion of poor households is 70%. In rural areas 95.1% of the population suffers from poverty, while in urban areas the corresponding figure is 51.1%. The incidence of poverty among households living in the principal cities is slightly lower (48.1%).

6. In general, the living conditions of the people are bad, many families lacking basic sanitation, living space, education, health care, energy supplies and decent housing. The statistics show that 73.9% of households are without a proper water supply and/or sanitary facilities or sewage systems; 69.2% of families are living in overcrowded conditions, 65% are educationally behind in terms of school attendance, years completed and/or literacy, and 53.4% do not take proper care of their health; moreover, 52.6% of private dwellings are without electricity and/or an adequate supply of fuel for cooking purposes and 48.9% are built of poor-quality materials.

7. There are significant differences between town and country. In rural areas all the needs are pressing: 93.7% of dwellings lack a proper water supply and/or sanitary facilities or sewage systems, 93.5% of households are without electricity and/or fuel suitable for cooking purposes, 84.7% lag educationally behind, and 83.81% of rural dwellings are built of poor-quality materials.

8. The social classification of households, based on the poverty index for each household, shows that more than a third are in a state of extreme poverty. Thus, 31.7% of family units are living in conditions of destitution and 5.1% are leading a marginal existence. This is equivalent to 2,109,870 extremely poor people who, on average, are able to meet only 70% of their basic needs as measured by the minimum standard of living.

9. Another substantial group of households live in moderate poverty. Thus, 33% are, on average, able to meet 75% of the minimum living requirements. At the same time, only 16.8% of households are able to satisfy their basic needs, while 13.4% of families stand on the threshold of poverty.

10. Nevertheless, in some areas, during the period between censuses (1976-1994), Bolivia has made significant advances. For example, in education, the percentage of people unable to read or write fell by 47% - from 37% in 1976 to 20% in 1992. However, this process of improvement in the educational level of the population has not benefited men and women equally, the male illiteracy rate having declined more rapidly than the female. In 1992, 11% of men were illiterate as compared with 27.7% of women.

11. The improvements have also been unequal in geographical terms, at urban, rural and regional levels.

12. At present, the rural areas are recording the highest illiteracy levels for both sexes, but mainly for women. In the countryside, half of them, 50% of those over 15 years of age, do not know how to read or write, whereas only 23% of men are illiterate. In the cities the female illiteracy rate is 15% and the male rate 40%.

13. In the last 16 years, education has become more accessible to those of school age (from 6 to 19 years old). However, 25.7% of them remain outside the school system. National coverage is uneven and there are sharp differences between levels of education and geographical areas, as well as between the sexes. Thus, in urban areas 90% of the population of school age in the basic to intermediate grades attend school, whereas in rural areas only 74% attend. In the higher grades (from 15 to 19 years of age) only 65% attend school in the urban areas, while in rural areas the percentage falls to 29%. Within these groups the girls are excluded to a greater extent from the formal educational system, albeit on a lesser scale than in the past.

14. In general, the state of health of the Bolivian people is still very precarious, with marked inequalities, although the last 16 years have seen changes, with progress in such indicators as life expectancy and mortality.

15. At present, Bolivians can expect to live, on average, up to the age of 61, whereas during the period 1975-1980 their life expectancy was only 48.

16. In terms of infant mortality, there has been a 50% decline in the number of deaths of children less than one year old. However, 75 deaths are still being recorded per thousand live births and there are sharp differences between urban and rural areas, where the rates are 58 and 94 respectively.

17. The same indicator broken down by sex relates to the period from 1979 to 1989. Girls less than one year old display a greater capacity for survival with 86 deaths per thousand. This advantage disappears between 1 and 4 years, when there are no differences in mortality in terms of sex. It is estimated that 57% of children less than 6 years old are suffering from malnutrition. Only 33% of the population less than 10 years old has access to health care services.

18. The nutritional study of children in rural areas shows that the diet of the girls, in particular, is deficient. The overall prevalence of malnutrition in terms of weight and height is 46.6%. The girls are worst affected with 25.5% as compared with 21.9% for boys. Malnutrition measured in terms of height and age reveals an even more significant difference with 27.7% of boys and 19.81% of girls affected.

19. Bolivia has one of the highest maternal mortality rates in Latin America with 480 deaths per 100,000 live births.

20. Of these deaths 46.6% occur during pregnancy, often as a result of complications following an induced abortion, 28% in childbirth and 25.4% after delivery.

21. The fertility rate of five children is the highest on the continent. In rural areas women have on average 6.3 and in urban areas 4.2 children. The population is estimated to be growing at the rate of 2.11% per year.

22. The fact that the poverty indicators are at such high levels in Bolivia is partly attributable to the collapse of the economy in the eighties.

23. The seventies were a period of economic growth and political stability, but with the arrival of the eighties the very structure of the economy began to crumble, undergoing changes which degenerated into a state of chaos and economic and social anarchy, an experience shared by all the Latin American economies of the state-controlled type, starting with the foreign debt crisis and continuing throughout the so-called "lost decade".

24. The comparison with the earlier period is stark. Whereas in the seventies the average rate of growth was 4.7% and the average inflation rate 15.9%, in the eighties these indicators turned sharply to Bolivia's disadvantage with average growth of 2.3% and an inflation rate of 1,969.4%.

25. The reduced amount of economic activity had to be shared out among a larger population. In the seventies, value added per capita grew by an annual average of 1.2%, 8.4% and 3.4% in the production, basic services and other services sectors respectively. In the eighties, the trend in the productive sector went into sharp reverse, its value added per capita decreasing, on average, by 7.2% per year. The services sector also declined, as did the economy as a whole. For basic services the value added fell to an average annual rate of 1.4%. Other services contracted at an average annual rate of 2.9%.

26. The foreign debt crisis, the continuous decline in exports as a result of the deterioration in the terms of trade and the insistence of the populist government of the first years of democracy on maintaining a fixed and overvalued exchange rate marked the beginning of serious problems for the economy which reached their peak in 1985. Foreign exchange earnings from exports fell by approximately 60% between 1980 and 1985; at the same time, foreign debt service payments increased as a result of the accumulation of obligations and the high interest rates applicable from 1980 onwards.

27. When the new democratic government of Dr. Paz Estenssoro took office in August 1985, daily inflation was 2% and the year ended with an estimated cumulative annual inflation rate of 23,000%. This was reflected in political and social chaos which almost led to the destruction of the democratic system under the natural pressure from labour and industry.

28. Starting in 1985, with the enactment of S.D. No. 21060 Bolivia began the transition to an open free-market economy. This new economic model proved to have strong support among the people and the successive democratic governments which espoused it were returned with solid majorities.

29. Obviously, the country's structural problems were so deep-rooted that, whatever their merits, the neo-liberal policies applied from 1985 onwards could not be expected to produce an immediate effect. Nevertheless, the macroeconomic progress made in recent years is encouraging.

30. In 1993, the Bolivian economy maintained a moderate rate of growth, continuing the trend observed over the previous 7 years which has made possible a relative improvement in the living conditions of the Bolivian people. The gross domestic product grew at a rate of 3.2% which is expected to rise to 4.5% this year. This is the result of policies designed to ensure economic stability by creating confidence in the financial system and endorsing an open-door approach to the rest of the world with a view to improving international competitiveness and transforming the country's economic structure.

31. Last year Bolivia had 9.3% inflation, the smallest rise for the last 17 years and one of the lowest rates in Latin America. Per capita GDP grew (by 1.1%) for the seventh consecutive year, as did domestic savings and net international reserves. Although per capita income is still one of the lowest in the region, it rose to 660 dollars and in the last few years there has been a significant improvement in the country's position in the world human development league table compiled by the United Nations.

32. However, the Bolivian economy is still beset by problems such as the excessive fiscal deficit which reached 6.5% of GDP in 1993, the decline in public investment, the persistent trade deficit and stubbornly high interest rates which are preventing easier access to credit and discouraging investment.

33. The foreign debt balance stands at US$ 3800 million and the ratios for 1993 are as follows: debt service/exports 27.3%, debt balance/exports 478.5%.

34. The open unemployment rate for 1993 was 5.4% less than that recorded in the previous year. The trend is basically attributable to an increase in labour-intensive activities such as commerce, services and construction. Nevertheless,

this measure of unemployment does not adequately reflect the country's real employment situation. If visible underemployment, i.e. those who work less than 46 hours a week, and disguised underemployment in terms of income, i.e. those whose income is insufficient to purchase a basic consumer basket, were taken into account the total rate of underemployment for 1993 would be 14.6%.

35. Bolivians start to work very early in life. The economically active population is considered to include those over six years old. According to the 1992 census, 50% of the total population now fall into this category as compared with the 42% recorded in 1976. In the period between censuses the proportion of women rose from 18% to 32%. In absolute terms, the number of economically active women increased by a factor of three.

II. HISTORICAL BACKGROUND

36. The history of the territory which today makes up the Republic of Bolivia goes back to the ancient cultures which developed on the high plateau, such as the Viscachense and Churupa, that of the Urus, and especially that of the first Andean empire which built the region's first planned city: Tihuanaco.

37. Other ethnic groups with their own characteristics also form part of the country's historical and cultural background. These include, in the valleys, the Jarupara or Ampara and the Mojoyocas and, in the eastern region, the Churiguanos, Guarayos, Moxenos, Movimas, Itenez and Mosetenes.

38. During the development of the Inca empire, the area corresponding to Bolivia became known as Collasuyo, being predominantly occupied by Aymaran settlements.

39. The arrival of the Spanish conquistadors in 1532 destroyed the organization which had prevailed in the region for centuries and introduced a new political institutional structure based on the exploitation of its rich mineral resources, mainly silver.

40. Thus, starting in 1538, the following cities were successively founded: La Plata hoy Sucre (1538) as the political and administrative centre of the royal Audiencia of Charcas Potosi (1548), based on the exploitation of the silver deposits of Cerro Rico; La Paz (1548) as an active commercial and trading centre; Santa Cruz (1561) and Trinidad (1686) as barriers to Portuguese expansionism and to control the eastern zone; Cochabamba (1574) as a centre for the harvesting and supply of agricultural produce; Tarija (1574) as a link with the Rio de la Plata; and Oruro (1600) to develop the mining potential of the area.

41. Some of these cities were the scene of events of great importance, both local and continental: Potosi, which at its peak had a bigger population than any other city in the world; Sucre, with the founding of San Francisco Xavier University, one of the first universities on the continent, in whose faculties the ideas of rebellion circulating during the last quarter of the eighteenth century were to mature, and the environment in which the first cry of freedom to be heard in the Spanish colonies was raised on 25 May 1689; and La Paz, where on 16 July of the same year there began the revolutionary process which spread through the American continent and culminated in the recognition of the countries of the region as free, sovereign and independent states.

42. The bloody war of independence lasted 15 years, at the end of which Bolivia was born on 6 August 1825 as a unitary, free, independent and sovereign Republic presided over by the liberator Simon Bolivar.

43. The first Bolivian Constitution and those which followed were profoundly influenced by the model and the ideas of the French Revolution. The penal and civil codes adopted by the new republic, although the first in Latin America, were faithful copies of the French legislation and political and administrative organization.

44. In the republican epoch the colonial model of exploitation of the silver and later tin deposits continued to be followed, with the development of a predominantly mining economy in the form of enclaves and big estates in the rural areas, intensive use being made of semi-slave labour since the social divisions between the Spanish owners ("criollos"), half-breeds ("cholos" or "mestizos"), native craftsmen, peasants and miners remained more or less intact. The region continued to play the role of producer and exporter of non-renewable resources, inherited from the colonial period, until the beginning of the fifties when the national revolution triggered a vigorous effort to diversify the country's economic structure.

45. In the course of its existence, the Republic of Bolivia has experienced three large-scale international wars and other territorial conflicts which led to its being stripped of more than half its territory and reduced to a landlocked condition following the loss of its sovereign outlet to the Pacific Ocean. In 1879, Chile invaded its territory during the War of the Pacific against Peru and Bolivia, depriving the country of its coastal strip; in 1903 it lost extensive Amazonian territories to Brazil in the War of the Acre, and finally, between 1932 and 1935 it surrendered the northern Chaco to Paraguay during the Chaco War.

46. Between the War of the Pacific (1879) and the Chaco War (1932-35) Bolivia experienced a period of great institutional stability, except for the civil war between liberals and conservatives in 1899. For almost 50 years, one democratic government succeeded another and the country prospered. This system broke down during the Chaco Warand the post-war period, which saw a confrontation between the working classes and the feudal-mining upper middle class rulers of the country.

47. In 1952, there began the national revolution of the MNR under the leadership of Victor Paz Estenssoro. This led to drastic institutional and economic changes in the life of the Republic, including the passage of the Agrarian Reform Act, which abolished the large estates and redistributed the land among the peasant majority; the nationalization of the mines, until then in the hands of the big multinationals; the granting of universal suffrage, which turned the native masses into citizens; the reform and universalization of education; and the introduction of a central planning system to diversify the mining economy.

48. In 1964, the revolutionary government of the MNR was overthrown by a military coup which marked the start of a long series of dictatorial governments of all tendencies, among the most pernicious of which were the dictatorships of General Banzer (1971-1978) and General Garcia Meza (1980-1981) who

systematically violated human rights, imposed a reign of terror and ended by ruining the national economy as a result of the corruptness of their regimes.

49. In 1982, after various attempts frustrated by the militarists, democracy was restored in Bolivia during the worst economic crisis that the country had had to endure. In the course of these years, four constitutional presidents succeeded each other: Hernan Siles Zuazo, Victor Paz Estenssoro, Jaime Paz Zamora and the present president, elected in 1993, Gonzalo Sanchez de Lozada.

50. The last 12 years of democracy have seen big changes in every area of national life. Of course, this has not been an easy process, but the net result is truly encouraging.

51. In recent years, Bolivia's economic system has been almost completely transformed, and the country is gradually emerging from the economic bankruptcy into which it sank in the eighties. This transformation was peacefully assimilated by society and most of the political class, which is exceptional for the subcontinent since similar economic experiments have produced very violent and destabilizing reactions in other countries in the region.

52. The continuity and the acceptance of the democratic system have made it possible to generate a culture of understanding and dialogue within the political class of a kind rarely encountered in the national history, which is characterized rather by institutional instability and confrontation. The agreements between the leaders of the main political groupings have made the country governable and opened the way for an accelerated process of legislative and constitutional change designed to consolidate the still recent Bolivian democracy. Despite the scale of the country's structural problems, it has so far been possible to deal peacefully with the longstanding social disputes. There is no terrorism in Bolivia, except for a few instances involving isolated groups which came into existence in former years and are now disorganized.

III. POLITICAL STRUCTURE

53. After being in force for 27 years, the Bolivian Constitution was recently reformed thanks to an agreement between all the parties represented in parliament.

54. For the first time in the nation's history, this constitutional change was effected in conformity with the legal procedures laid down in the Constitution itself and with the massive participation of the political forces.

55. The new Constitution promulgated on 12 August 1994 by President Gonzalo Sanchez de Lozada marked the culmination of a dynamic legislative campaign embarked upon by the Bolivian Government in order to modernize and reshape the country. These far-reaching changes are primarily aimed at increased public participation in government decisions, the greater democratization of the public powers, the more effective protection of human rights, the legitimation of the national representatives, the recognition of the rights of the indigenous peoples, the broadening of the electoral base within a mainly youthful population by setting the legal age at 18, and administrative decentralization.

56. Article 1 of the revised Constitution states: "Bolivia, free, independent, sovereign, multiethnic and pluricultural, constituted as a unitary republic,

adopts for its government the democratic representative form, founded on the union and solidarity of all Bolivians".

57. This recognition of Bolivia's multiethnic and pluricultural nature is intended to make amends for the injustice done to the indigenous peoples who for centuries had had their rights ignored and, what is more, were in danger of extinction.

58. Article 2 establishes the legal structure of the country: "Sovereignty resides in the people; it is inalienable and imprescriptible; its exercise is delegated to the legislative, executive and judicial powers. The independence and coordination of these powers is the basis of government. The functions of the public power, legislative, executive and judicial, cannot be united in a single organ".

A. The Legislature

59. In this connection, Article 46.2 of the Constitution states: "The National Congress shall meet in ordinary session every year in the capital of the Republic on the sixth day of August, even if it has not been convoked. The sessions shall last ninety working days, which may be extended to one hundred and twenty, either by the will of Congress itself or upon the request of the Executive. If at any time the Executive deems it expedient for the Congress not to meet in the capital of the Republic, it may issue a call for it to meet elsewhere".

60. This particular provision requiring the Congress to meet every year at a fixed time and place, without having to be convoked, is intended to ensure its functional independence and freedom from any form of interference.

61. Article 48 stipulates that the chambers must function with an absolute majority of their members, at the same time and in the same place, and one house may not open or close its sessions on a different day from the other. This simultaneity of sessions is intended to ensure the coordination and efficiency of the work of Parliament which might otherwise be impaired or delayed.

62. The meetings of the Congress may be either ordinary or extraordinary. The ordinary meetings are fixed. They start on 6 August and last 90 working days, extendable to 120 days either by the will of Congress itself or upon the request of the Executive. Congress may meet in extraordinary session at any time by decision of an absolute majority of its members or if convoked by the Executive and "shall devote itself to the matters designated in the convocation" (Art. 47). This means that the notice of convocation must necessarily contain the questions for discussion, subject to the powers of the Congress to oversee and monitor the actions of the Executive.

63. Article 59 assigns to the Congress the following powers:

(a) Legislative. According to subparagraph 1, Congress may "enact, repeal, amend or interpret laws" (Arts. 29, 71 and 96.4). This is a fundamental activity of the "legislators" which may originate in either chamber, upon the initiative of one or more of its members; although the Executive and the Supreme Court can admittedly also take the initiative with respect to the enactment of

laws, they cannot do so with respect to their repeal, derogation, amendment or interpretation, which remain the exclusive prerogative of the Legislature;

(b) Economic and financial. Subparagraph 2 empowers the Legislature, upon the initiative of the Executive, to impose taxes of any nature or description, abolish existing taxes and determine their national, departmental or university character, as well as to fix fiscal expenditures. Such taxes are indefinite unless a time limit is established by the law itself. This requirement is consistent with Articles 26 and 27 and reflects the constitutional principle that only the people, through their representatives, may authorize the taxes which have to be paid. Subparagraph 3 empowers the Legislature to fix the expenditures of the public administration for each financial period, after submission of the budget by the Executive, and subparagraph 11 assigns it the task of approving the annual statement of expenditure and investment which the Executive must submit to the first session of each legislative term. This is a very important function since it allows the representatives of the people to oversee and control the way in which the people's taxes and loans contracted with the prior authorization of the Legislature are spent (subparagraph 5). Contracts for the exploitation of natural resources must also receive the prior approval of this body (subparagraph 5). Moreover, the Legislature must examine the development plans which the Executive submits for its consideration (subparagraph 4) and establish the monetary system and the system of weights and measures.

(c) Political and administrative. In this area, the Constitution authorizes the Legislature (upon the initiative of the Executive) to create and abolish public offices while specifying their powers and fixing their emoluments. It is explained that this body may approve, reject or reduce the services, offices or emoluments proposed by the Executive but may not increase them, with the exception of those relating to the National Congress. The justification for this restriction, and for the initiative accorded to the Executive in these matters, is the same as that for the initiative accorded in relation to taxes, namely to prevent the deputies and senators from overstepping the mark as regards the number of public offices and their remuneration, whether for political reasons or to honour electoral promises. Moreover, it is considered that the Executive, as an administrative body, is better acquainted with the needs and requirements of the civil service. The Legislature must also authorize the alienation of national, departmental, municipal and university property and any property in the public domain and the acquisition of real property by the Executive (subparagraph 8), and grant subsidies or guarantees for the construction of public works and those of social necessity (subparagraph 6). Another function of the Legislature is to appoint the justices of the Supreme Court of Justice and representatives on the electoral courts (subparagraphs 20 and 21), and to create new departments, provinces, districts and cantons and fix their boundaries, etc. (subparagraph 18);

(d) International policy. Under the Constitution, the Executive is responsible for conducting and implementing the country's international policy, but since treaties and conventions concluded with other States concern the entire nation, the Legislature must ratify them (subparagraph 12) if they are to have effect, but without changing them, since it lacks the relevant legal capacity and powers. However, the Legislature may suggest various clarifications and additional points that the Executive could negotiate with the interested State or States through an exchange of verbal notes. As regards unconsummated

international treaties, commitments or acts, the Legislature may exercise diplomatic influence over the Executive (subparagraph 13) by making specific proposals and suggestions;

(e) Military. In the military sphere, the Legislature approves the military forces to be maintained in time of peace, gives permission for the transit of foreign troops through the national territory, determines how long they may remain therein, and authorizes the dispatch of national troops abroad for a specified period (subparagraphs 14, 15 and 16);

(f) University. Notwithstanding that the autonomy of the universities consists of freedom to administer their own funds, to prepare and approve their budgets and to enter into contracts to achieve their purposes, as well as the capacity to negotiate loans obtained or to be paid for with the people's taxes;

(g) Judicial. Article 59.19 authorizes the Legislature "to decree amnesties for political offences and grant pardons after receiving a report from the Supreme Court of Justice". This power is independent of that granted to the President for the same purpose by Article 96.13.

64. In order to represent the people, deputies and senators must satisfy the following terms and conditions which are common to both chambers:

(a) Be Bolivian by birth and have fulfilled their military obligations, be at least thirty-five years of age for senators and twenty-five for deputies (Articles 61 and 69). The military obligations are compulsory military service and national defence in the event of international conflict;

(b) Be enrolled in the civic register, as applies to all citizens in accordance with Article 220 of the Constitution and electoral law.

65. Candidates for the office of deputy or senator must be nominated by a political party or by a civic group representative of the live forces of the country, having recognized juridical personality and forming a bloc or front with a political party.

66. Other conditions include "not to have been condemned to corporal punishment, unless rehabilitated by the Senate" (together with Article 66.2); "nor to have charges or writs of execution against them; nor to be included among the cases of exclusion or incompatibility established by law". According to Articles 50 and 221 of the Constitution and Article 150 of the Electoral Act, the following may not be elected as national representatives: civil servants and employees, military and police officials in service, and ecclesiastics who do not resign and give up their functions at least sixty days before the elections; contractors for public works and services; administrators, managers and directors of companies in which the government holds a pecuniary interest; administrators of public funds until their contracts and accounts have been closed; and those unable to read or write.

67. According to Article 67, each chamber verifies the credentials of its members issued by the electoral courts, selects its officers, and prescribes and enforces its regulations.

68. The same article, in conformity with Article 8 of the Electoral Act, states that "claims of disqualification of persons elected or for annulment of an election may be brought only before the National Electoral Court, whose decisions cannot be reversed by the chambers. If the chamber finds grounds for annulment, the case shall be sent, by a two-thirds vote decision, to be heard and ruled upon by that court. A ruling must be given within fifteen days". Article 57 states that senators and deputies may be reelected and may resign from their positions.

69. There is a fundamental incompatibility between the representation of the people and the civil service which has led to the organs of power being made independent, so that their nature and functions may be well defined and governments prevented from trying to lure or neutralize members of parliament with various coveted appointments.

70. National representatives may accept only the offices of President or Vice-President of the Republic (if so elected), minister of state, diplomatic agent or prefect of a department, and are suspended from their legislative functions while they continue to hold such office (Article 49).

71. Other self-evident incompatibilities are mentioned restrictively in Article 54 which states: "no senator or deputy shall purchase or lease public property in his own name or in the name of a third party, nor shall he take on public works or government supply contracts or obtain from the State concessions or personal advantages of any other kind. Nor may he, during his term of office, be an official, employee, agent, adviser or representative of an autonomous entity or of a company or enterprise doing business with the State".

72. According to Article 67.4, each chamber may "remove temporarily or definitively, by a two-thirds vote, any of its members for serious misdoings in the exercise of their functions". This is a disciplinary power intended to safeguard the dignity of Congress and popular representation but, in order that it may not be abused for political or other secondary purposes, as has so often been the case in the course of our parliamentary history, a two-thirds vote is required.

73. The most important prerogative accorded to Bolivian members of parliament is: <u>inviolability</u>. Thus, Article 51 states that "Deputies and senators are inviolable at all times for the opinions expressed by them in the discharge of their duties", thereby guaranteeing freedom of opinion and expression and freedom of the vote to the legislator who may not be harassed, threatened or prosecuted, or constrained in any other way to think and act in a way that is contrary to his purpose. Immunity is the protection afforded to the legislator against being prosecuted, arrested or tried in any matter, during his term of office, thereby enabling him to perform his representative functions fully and freely, without being interrupted or impeded by actions based on fact or presumption, unless the chamber to which he belongs consents by a two-thirds vote. Article 52 adds: "In civil matters he may not be sued or required to give bond during a period beginning sixty days before Congress meets and ending upon his return to his residence".

74. Inviolability and immunity are not suspended during a state of siege (Article 115). Article 53 grants the Vice-President of the Republic, in his capacity of President of the National Congress and the Senate, the same

prerogatives as are granted to senators and deputies. According to Article 55, the legislators may make representations to the Executive to secure compliance with the law and the satisfaction of the needs of their districts. They may also request ministers of state for oral or written information for legislative purposes or for purposes of inspection or examination and "may propose the investigation of any matter of national interest" (Article 70, second paragraph). Clearly, the Legislature's powers to obtain information and investigate the actions of the Executive are very extensive, giving it unlimited authority to watch over every facet of national life.

75. In accordance with Bolivian parliamentary practice, when the Executive fails to respond to a request for written information within fifteen days, it automatically becomes a request for oral information which can also be addressed to a minister present in the chamber. The written or oral statement by one or more ministers may end in agreement with the petitioners or in their submitting a minute ("minuta de comunicacion") or draft resolutions or bills which they consider appropriate, or may lead to interpellation if the conduct of the provider of the information is deemed to be an infringement of the law or civil liberties.

76. Interpellation is a parliamentary process in which, through a public debate in either chamber, members of the Executive are called upon to correct their conduct in relation to specific matters and may be censured by a vote of an absolute majority of the members present (Article 70, first paragraph). The procedure may also end in a vote of confidence or rehabilitation when the censure motion fails or in "the agenda pure and simple", which produces no effect. Both censure and confidence constitute a "reasoned agenda". In principle, the sessions of the Legislature are public and "may be secret only when two-thirds of the members so resolve" (Article 58), in order to permit the consideration of restricted matters relating to national defence, sensitive diplomatic negotiations, etc. which, at the time of discussion, must be kept from the public for reasons of national security or in the national interest.

77. The recently reformulated Article 70 states that upon the initiative of any member of parliament, the chambers may request the ministers of state for oral or written information for legislative purposes or purposes of inspection or examination, and propose investigation of matters of national interest.

78. Upon the initiative of any member of parliament, each chamber may interpellate the ministers of state, individually or collectively, and agree to censure their acts by the vote of an absolute majority of the representatives present.

79. The purpose of censure is to obtain changes in the policy or procedure to which objections are raised and implies the resignation of the minister or ministers censured, which may be accepted or rejected by the President of the Republic.

80. According to Article 68, the chambers must meet in joint session of Congress to open and close their sessions and for the following purposes:

(a) To verify the election returns for President and Vice-President of the Republic, or to name them whenever the candidates have failed to obtain an absolute majority of votes in the general elections (Article 90); to receive

their oath of office and, when necessary, accept or reject their resignation (subparagraphs 3 and 4); to approve the statement of expenditure and investment to be submitted annually by the Executive; to exercise diplomatic influence; to reconsider bills vetoed by the Executive; and to determine the strength of the armed forces (subparagraphs 5, 6 and 8);

(b) On petition of the Executive, the Congress must meet to decide whether to authorize a declaration of war. This being such a critical matter, involving the entire nation, it is natural that the consent of a plenary session of the Congress should be required before a decision can be taken (subparagraph 7). Congress must also meet to consider the declaration and effects of the state of siege referred to in Articles 111 to 115, and the government's report thereon (subparagraph 11).

81. When a bill approved by one of the chambers (chamber of origin) is not approved by the other, then, according to the legislative procedure (Article 74), the two chambers must meet in joint session to explain their points of view and try to reconcile their differences in order that the bill may be carried forward if it so merits (subparagraph 9).

82. In accordance with subparagraph 12 of Article 68, the Congress must conscientiously take cognizance of charges of responsibility against the President and Vice-President of the Republic, ministers of state, heads of diplomatic missions and the Comptroller-General of the Republic for offences committed in the exercise of their functions.

83. The revised Constitution assigns new functions to the Congress empowering it to elect, by a two-thirds vote of all its members, the justices of the Supreme Court of Justice, the judges of the Constitutional Court, the counsellors of the Judicature Council, the Attorney General of the Republic and the Ombudsman. The latter constitutes one of the most important achievements of Bolivian democracy in its efforts to depoliticize the institutions and restore their credibility. Article 69 expressly prohibits Congress from delegating any of the functions just described to one or more of its members or to any other power, in accordance with the constitutional principle of the separation of powers and to preserve the independence of the Legislature (together with Articles, 2, 30 and 115).

84. According to Article 66, the Chamber of Senators has the following powers: firstly (subparagraph 1), to hear indictments brought by the lower chamber against justices of the Supreme Court of Justice, trying them in sole instance and imposing on them the appropriate penalties and responsibilities, by a vote of two-thirds of the senators present. Another function of the Senate (subparagraph 2) is "to restore Bolivian nationality or citizenship to those who have lost such status". The wording of this paragraph is constitutionally deficient in two respects. Firstly, Bolivian nationality is lost as a result of acquiring another, but it can be regained simply by becoming domiciled in Bolivia (Article 39). Thus, nationality is regained automatically and does not have to be "restored" by the Senate or any other authority. Secondly, citizenship is not lost, merely suspended, since Bolivia does not have a civil death penalty.

85. The Senate's third function is "to authorize Bolivians to accept employment, titles or emoluments from a foreign government", naturally in

advance, so that their citizenship is not suspended under Article 42. Under the same article, the Senate's authorization is not required where posts with and missions on behalf of international, religious, university and, in general, cultural organizations are involved.

86. The Senate must also approve municipal ordinances concerning licences and taxes (subparagraph 4), and confer public honours on those who deserve them for distinguished services to the nation (subparagraph 5). The exercise of function 4 of Article 37, which empowers the Senate to grant Bolivian nationality to foreigners for valuable services to the country, also falls under this head.

87. The Senate elects the public prosecutors of the Supreme Court from lists proposed by the Attorney General of the Republic, and must also propose lists to the President of the Republic for the appointment of the Comptroller General and the Superintendent of Banks (subparagraph 7) while, according to subparagraph 8, it may grant pecuniary awards, by a two-thirds vote.

88. Under subparagraph 9, it may accept or refuse, by secret vote, promotions to general of the army or air force, divisional general, brigadier, rear admiral or vice-admiral of the armed forces of the nation, as proposed by the Executive.

89. Subparagraph 10 of the same article empowers the Senate to approve or reject the appointment of heads of diplomatic missions (ambassadors and ministers plenipotentiary) proposed by the President of the Republic.

90. The functions, number and method of election of the Deputies has been radically revised in Article 60 of the Constitution which reads: "The Chamber of Deputies is composed of one hundred and thirty members from each department. Half the deputies are elected in uninominal constituencies, the other half in plurinominal departmental constituencies from lists headed by the candidates for president, vice-president and senators of the Republic."

91. The candidates are nominated by the political parties.

92. The uninominal constituencies must have geographical continuity and affinity and be territorially harmonious, must not extend beyond the boundaries of each department and must be based on population. The National Electoral Court will establish the boundaries of the uninominal constituencies.

93. The deputies are elected by universal, direct and secret ballot, in the uninominal constituencies by a simple majority of votes and in the plurinominal constituencies in accordance with the system of representation established by law.

94. The number of deputies must reflect the proportion of the votes obtained by each party.

95. The distribution of the total number of seats among departments is determined by law on the basis of the population of each department, according to the latest national census.

96. To ensure fairness, the law assigns a minimum number of seats to those departments with a smaller population and a lower level of economic development.

If for any department the distribution of seats turns out to be unequal, preference will be given to the assignment of uninominal seats. Deputies hold office for five years and the chamber is renewed in its entirety.

97. These changes were made in response to one of the severest criticisms levelled against the political class and the party system by the public. While legitimizing the representatives elected directly, it is hoped that the half of the legislators who continue to be elected on the list of the candidate for the presidency will restore the balance of governability for the Executive.

98. The Chamber of Deputies elects the district public prosecutors from lists proposed by the General Council of the Office of the Attorney General.

99. It must take the initiative in connection with functions 3, 4, 5 and 14 of Article 59, i.e. in fixing the expenditures of the public administration for each financial period, considering the development plans which the Executive submits for consideration by the Legislature, authorizing and approving the contracting of loans and contracts relating to the exploitation of national resources, and annually approving the military forces to be maintained in time of peace.

100. At the same time, this chamber receives the report submitted by the Executive concerning a state of siege, for consideration in sessions of the Congress, indicts before the Senate justices of the Supreme Court of Justice for offences committed in the exercise of their functions, and proposes lists to the President of the Republic for the appointment of the presidents of the economic and social entities in which the State participates, namely the following institutions and decentralized public and mixed enterprises: COMIBOL, Y.P.F.B., L.A.B., Development Corporation, Central Mining and Agricultural Bank.

101. The chambers, which at the same time as legislating carry out an eminently political task when they delimit, instigate, scrutinize and oversee the activities of the government, cannot function without the support of specialized bodies which collect data, facts and information on a variety of topics to permit the preparation of reports and proposals which are then submitted for their consideration. This work is entrusted to the legislative committees which have varied in number over the years but have always reflected the wide diversity of the subject matter with which the chambers have to deal.

102. The legislative committees are made up of deputies and senators in each chamber, and the number of members varies according to the nature of the task.

103. The titular members, who are elected by reason of their profession or their knowledge of the subject matter of each committee, are supported by government technical experts, officials and specialists or private individuals, as necessary.

104. The reports, proposals and opinions of the legislative committees are merely illustrative and are not legally binding on the chambers which can decide differently.

105. In recent legislatures, the Human Rights Committee of the Chamber of Deputies, in particular, has acquired a reputation for its crucially important investigations and defence of civil rights.

106. Title One of Part Two of the present Constitution ends with Chapter VI which relates to the Congressional Committee. This Committee is responsible for maintaining legislative continuity, principally while the chambers are adjourned.

107. This chapter was an innovation of the 1967 Constitution which filled a notorious constitutional void.

108. Article 82 provides for the Congressional Committee to be composed of nine senators and eighteen deputies who, with their alternates, are elected by each chamber "in a way that in so far as possible reflects the territorial composition of Congress". It is presided over by the Vice-President of the Republic and includes the elective President of the Senate and the President of the Chamber of Deputies, acting as first and second vice-presidents respectively.

109. According to Article 83, the powers of the Congressional Committee are:

(a) To see that the Constitution is observed and that civil guarantees are respected, and to this end to adopt such measures as are deemed appropriate;

(b) To investigate and generally oversee the public administration, addressing to the Executive such representations as are deemed pertinent;

(c) To request the Executive, by a two-thirds vote of all its members, to convoke extraordinary sessions of Congress when the importance of the matter so demands;

(d) To acquaint itself with all pending matters in order that they may be taken up again in the next period of sessions;

(e) To prepare bills for consideration by the chambers.

110. Article 84 requires the Congressional Committee to report on its activities to the first regular sessions of the chambers.

B. The Executive

111. In Bolivia, the executive power is organized as follows.

112. The central administration consists of the presidency of the Republic and the ministries of state.

113. The new Government which took office on 6 August 1993 promulgated the Executive Ministries Act No. 1493 which states that "the business of the public administration shall be despatched by the Ministers of State, in accordance with the provisions of the State Constitution. A decree of the President of the Republic is sufficient for the appointment or removal of a minister of state".

114. The ministers of state are responsible, jointly with the President of the Republic, for acts of administration within the sphere of functional competence assigned to each of them under the Act and are jointly and severally responsible for the measures taken by the President with the agreement of the Cabinet Council.

115. The President of the Republic convokes and presides over the Cabinet Council which is composed of all the ministers of state.

116. According to Article 4, the ministers of state are as follows:

- Minister of Foreign Relations and Worship;
- Minister of the Interior;
- Minister of National Defence;
- Minister of the Presidency;
- Minister of Justice;
- Minister of Finance and Economic Development;
- Minister of Human Development;
- Minister of Sustainable Development and the Environment;
- Minister of Labour;
- Minister of Social Communication;
- Minister of Capitalization.

117. The President of the Republic may appoint, temporarily within the corresponding constitutional period, up to two ministers of state without portfolio.

118. The higher echelons of authority in each ministry are as follows:

- ministers of state;
- national secretary;
- undersecretaries.

119. The functions of the ministers are:

(a) To participate in cabinet meetings;

(b) To make oral and written reports to the legislative chambers;

(c) To assist with the preparation of the national general budget;

(d) To decide, in the last instance, the administrative questions that arise from acts within their sphere of competence;

(e) To authenticate the acts of government and administrative acts of the President of the Republic relating to their office, by signing all the corresponding decrees and resolutions;

(f) To propose to the President of the Republic, within their spheres of competence, strategies consistent with the national objectives, together with the programmes of budgetary operations and financial commitments necessary to implement them;

(g) To develop the strategies approved and follow up and evaluate them, assigning technical, administrative and operational tasks to others in their ministry, where necessary;

(h) To establish consultative councils and sectoral committees to facilitate the ministerial tasks;

(i) To submit to the President of the Republic and the Cabinet Council projects falling within their sphere of competence;

(j) To engage and remove the personnel of their ministry in accordance with the terms of the Civil Service Act and the policies of the body in charge of the personnel system, subject to the provisions of Articles 8 and 10 of this Act;

(k) To establish the needs and negotiate and administer financing and outside technical cooperation in their spheres of competence, within the framework of the debt and public investment policies and in agreement with the minister responsible for those policies;

(l) To ensure that their actions are consistent with those of the other ministers and to coordinate and concert with them in matters of common interest;

(m) To submit to the President of the Republic their ministry's report and annual statement for presentation to Congress;

(n) To exercise the other powers assigned to them by the Constitution and the law.

Human Rights Department

120. In the field of human rights, the establishment of the Ministry of Justice and, within it, the Human Rights Department marked an important step forward by creating for the first time a State institution specifically for the defence of basic rights.

121. Article 17 states: "The Ministry of Justice is competent to act in everything concerned with the relations between the executive and judicial powers and respect for human rights, and in particular:

(a) To propose and administer national policy on the defence, protection and promotion of human rights and to see that the international treaties and conventions on human rights are applied;

(b) To administer the national programme of public defence in order to promote and maintain the balance of due process;

(c) To spread and promote knowledge of human rights;

(d) To encourage efficiency, efficacity and aptitude in the legal services of the Executive;

(e) To propose legislative and administrative measures designed to combat corruption and impunity;

(f) To plan and propose the updating and revision of the concordances of the codified legislation in force and the special laws which make up this part of the legal system.

122. The decentralized administration is composed of the development corporations in each department, the public institutions and the mixed enterprises.

123. The localized administration consists of the regional units of each ministry (Revenue, Customs, Agriculture, etc. in the departmental capitals) and the departmental administration (prefectures, subprefectures, corregimientos).

124. According to Article 108, the national territory is politically divided into departments, provinces, sections of provinces and cantons.

125. The internal regime is the system of agencies and authorities that represent the central administration of the executive power in the departments, provinces, sections and cantons.

126. The revised Article 109 states that "in each department the executive power is entrusted to and administered by a prefect appointed by the President of the Republic".

127. The prefect acts as major general of the department, and the sub-prefects of the provinces and corregidores of the cantons are appointed by and subordinate to him, as are the departmental administrative authorities within his competence.

128. Senators and deputies may be made prefects of departments subject to the suspension of their parliamentary duties during their term of office.

129. At departmental level executive power is exercised under an administrative decentralization regime.

130. Each department has a departmental council presided over by the prefect.

131. Local administration is in the hands of the municipalities whose regime was also drastically reformed by the Popular Participation Act promulgated by the Government of Sanchez de Lozada.

132. Autonomous municipal governments of equal standing are responsible for governing and administering the boroughs. In the cantons there are municipal agents under the supervision and control of the municipal government of their jurisdiction.

133. Municipal autonomy consists in the exercise of regulatory, executive, administrative and technical authority within the corresponding territorial jurisdiction and sphere of competence. The municipal governing body consists of a mayor and council.

134. The councillors are elected by universal, direct and secret ballot for a period of five years in accordance with the proportional representation system established by law. The municipal officers are similarly elected, by a simple majority of votes.

135. Those at the top of the lists of councillors submitted by the parties are candidates for mayor. The mayor is elected by an absolute majority of valid votes.

136. If none of the candidates for mayor obtains a majority, the council takes the two with the most valid votes and chooses between them on the basis of an absolute majority of the valid votes of all the members of the council, in a roll-call ballot. In the event of a tie, a further vote is taken.

137. The following constitutional provisions apply to the leadership of the Executive: To be elected President of the Republic or Vice-President the same qualifications are required as for senator. Those ineligible include: ministers of state and presidents of economic and social entities in which the state participates who do not vacate their office six months prior to the date of the election; relatives by blood or affinity, within the second degree, of those who hold the presidency or vice-presidency; members of the armed forces in active service or of the clergy, and ministers of any religious faith. In accordance with the Bolivian system of universal suffrage, the President and Vice-President are elected by direct suffrage (Art. 86), after which Congress must verify the returns (Art. 68.2) and proclaim their election by means of a law (Art. 91). Upon taking up office in a solemn session of Congress, they both swear an oath of loyalty to the Republic and the Constitution (Art. 92).

138. According to the new constitutional provisions, the term of office of the President of the Republic is five years without extension. The President may be re-elected once only after at least one constitutional term has elapsed.

139. The term of office of the Vice-President is also five years without extension. The Vice-President cannot be elected President or Vice-President in the term following that in which he held office. If in the general elections none of the candidates for the presidency or vice-presidency obtains an absolute majority of valid votes, Congress shall choose, by an absolute majority of valid votes, in a roll-call ballot, between the two candidates who received the most valid votes.

140. In the event of a tie, two further roll-call votes may be taken. If the deadlock persists, the candidates who obtained a simple majority of the valid votes in the general elections will be proclaimed President and Vice-President. In the event of a temporary impediment or absence of the President, before or after his proclamation, he shall be replaced by the Vice-President and, in default of the latter and in succession, by the President of the Senate, the President of the Chamber of Deputies, and the President of the Supreme Court of Justice.

141. The Vice-President will assume the presidency of the Republic if that office becomes vacant before or after the proclamation of the President-elect and hold it until the end of the constitutional term.

142. In default of the Vice-President, the President of the Senate acts in his stead, and in default of the latter, the President of the Chamber of Deputies and the President of the Supreme Court of Justice, in strict order of priority. In this latter case, if three years of the presidential term have not yet elapsed, a new election for President and Vice-President must be held, solely to complete the term.

143. According to Article 95, the President may not leave the country without the consent of Congress. Considering that the Head of Government represents the nation at the highest level, it is natural that Congress, the depositary of the national will, should be aware of the reasons for his leaving the country and give its prior consent.

144. Article 98 requires the President "to visit the various centres of the country at least once during his term of office in order to study their needs".

145. The Vice-President has two functions, one essential, namely to exercise the powers of the presidency in the event of an impediment or absence of the President, and one secondary, namely to preside over the Congress and the Senate (Articles 53 and 94).

146. Article 96 of the Constitution lists the "powers of the President of the Republic" which are, in reality, those of the Executive since they are exercised by the President together with the ministers of state (Article 85) and not by the former alone. These powers are channeled through the ministries of state, as may be inferred from Article 96 and the recent Law No. 1493. Article 96 begins by assigning to the President the task of "implementing and enforcing the laws by issuing appropriate decrees and orders, without defining rights restrictively, altering those defined by law or contravening their provisions, bearing in mind the restrictions laid down in this Constitution". In the field of international politics, the Executive must "negotiate and conclude treaties with foreign countries and exchange them when ratified by Congress" (subparagraph 2), and "conduct foreign relations, appoint diplomatic and consular officials and receive foreign officials in general" (subparagraph 3).

147. Clearly, this gives the Executive the initiative where the country's international policy is concerned, but not a monopoly over it, since Congress must, without fail, approve the treaties negotiated and signed and the appointment of ambassadors and ministers plenipotentiary (Articles 59.12 and 66.10). The Executive must also "administer the national revenues and order their disbursement through the appropriate ministry, in accordance with the laws and strictly subject to the budget" (subparagraph 6).

148. For this purpose, it must "submit to the Legislature, within the first thirty regular sessions, the national and departmental budgets for the following financial period and, while they are in effect, propose such changes as it deems necessary. An account of public expenditures under the budget must be rendered annually" (subparagraph 7).

149. It must also "submit to the Legislature development plans not covered by ordinary budgets" (subparagraph 8), and submit to the first annual session of Congress "a written message concerning the progress and state of government business during the year, accompanied by reports from the ministries" (subparagraph 10). This is a very important obligation since it requires a report to the nation, through its representatives in Congress, on the general activities of the government and on the country's political, economic and administrative situation.

150. The Executive is also called upon to "examine resolutions passed by municipalities, especially those relating to revenue and taxes, and to denounce before the Senate those that are contrary to the Constitution and the laws, if

the offending municipality does not accede to the demands of the Executive" (subparagraph 9).

151. Another responsibility of the President is "to furnish the chambers, through the ministers, such information as they may request, although he may withhold information on diplomatic negotiations which in his opinion should not be made public" (subparagraph 11). In these latter circumstances, the Executive must inform the chambers in closed session, except in the case of international war when absolute secrecy can be justified in connection with affairs of national security and defence.

152. The Executive is responsible for making the following appointments and issuing the credentials:

1. Employees of the administration whose appointment is not reserved by law to some other power.

2. Interim appointments, by reason of resignation or death, of those who should normally be appointed by another power, if the latter is in recess.

3. The Comptroller General of the Republic and the Superintendent of Banks, from lists proposed by the Senate, and the presidents of the economic and social entities in which the state participates, from lists proposed by the Chamber of Deputies (subparagraphs 14, 15 and 16).

153. A further responsibility is to preserve and defend the internal order and the external security of the Republic, in accordance with the Constitution (subparagraph 18). The government has a duty to maintain public order as an indispensable prerequisite for peaceful coexistence and creative activity. However, the authorities can be punished and censured for any excesses involving the violation of the Constitution and the law.

154. The Executive also performs colegislative functions by participating in the enactment of codes and laws through special messages (subparagraph 4), calling Congress into special session, when necessary (subparagraph 5), attending the opening and closing sessions of Congress (subparagraph 17), designating the representatives of the executive power on the Electoral Courts (subparagraph 23), and promulgating and vetoing laws. As far as the judicial power is concerned, it must enforce the decisions of the courts and "grant amnesties for political offences, without prejudice to those that may be granted by the Legislature" (subparagraphs 12 and 13).

155. Another judicial function of the Executive is to grant title deeds for land redistribution purposes, pursuant to the provisions of the Agrarian Reform Act of 2 August 1953 and related provisions. In fact, under the Constitution, "the President is the highest authority in the National Agrarian Reform Service" (subparagraph 24). He is granted that authority because of the importance of the question, which concerns the majority of the Bolivian population (peasantry) whose interests and rights have for centuries been flouted and now require the protection of the foremost representative of the nation.

156. Finally, as supreme commander, the President designates the commanders of the armed forces (the commander-in-chief and the commanders of the army, air force and navy, together with the national commander of the Bolivian police). He

proposes to the Senate promotions to general of the army and of the air force, divisional general and brigadier, and admiral, vice admiral and rear admiral of the fleet (Armada), and during an international war confers on the field of battle the ranks above-mentioned (subparagraphs 19, 20 and 21).

C. The judiciary

157. The Constitutional Reform Act No. 1585 practically recreated the Bolivian judiciary. This was a great national achievement considering how it had been stigmatized for its ineffectiveness, social insensitivity and corruption. The Reform Act introduced the Constitutional Court and the Judicature Council in an attempt to make the administration of justice transparent again.

158. The most important reforms are as follows: "The judicial power is exercised by the Supreme Court of Justice of the Nation, the Constitutional Court, the Superior District Courts, the trial courts and judges, and any other courts or tribunals that may be established by law. The law determines the organization and powers of the courts and tribunals of the Republic. The Judicature Council forms part of the judiciary. No extraordinary courts or tribunals may be established".

159. The power to decide in ordinary, contentious and administrative proceedings and to have the decisions enforced is vested in the Supreme Court and the respective courts and judges. In accordance with the principle of jurisdictional unity, the verification of constitutionality is the responsibility of the Constitutional Court. The Judicature Council is the administrative and disciplinary body of the judiciary.

160. The magistrates and judges are independent in the administration of justice and are subject only to the Constitution and the law. They may not be removed except by final judicial decision. The law establishes the judicial roster and the conditions of permanency for ministers, magistrates, councillors and judges. The judiciary has economic and administrative autonomy.

161. The general national budget assigns an annual amount centralized in the judicial treasury which is responsible to the Judicature Council. The judiciary is not empowered to devise or introduce judicial charges or assessments.

162. The exercise of the judicial function is incompatible with any other remunerated activity, public or private, with the exception of a university professorship.

163. It is essential that the administration of justice be free, public and swift and the decisions honest. The judiciary is responsible for providing free legal defence for the poor, and interpretation for non-Spanish speaking defendants.

Supreme Court of Justice

164. The Supreme Court is the Republic's highest court of general, contentious and administrative justice. It sits in the city of Sucre. It consists of twelve justices organized in specialized divisions ("salas").

165. To be a justice of the Supreme Court it is necessary to satisfy the requirements for senator, except for nomination by a political party, hold the title of Abogado en Provision Nacional and have served capably as a judge, lawyer or university professor for at least ten years. Justices are elected by the Congress, by a two-thirds vote of all its members, from a list submitted by the Judicature Council. They hold office for a personal nonextendable term of ten years from the time of taking up the appointment and may not be reelected until after the expiration of a period equal to that during which they served.

166. Their principal powers are as follows:

(a) To represent the Judiciary;

(b) To appoint, by a two-thirds vote of the members of the full court ("Sala Plena"), the magistrates of the Superior District Courts, from lists proposed by the Judicature Council;

(c) To decide applications for annulment and judicial review in the ordinary and administrative jurisdiction;

(d) To settle conflicts of jurisdiction which arise between Superior District Courts;

(e) To rule in responsibility proceedings against the President and Vice-President of the Republic, ministers of state and prefects of departments for offences committed in the exercise of their functions, at the request of the Attorney General of the Republic, subject to the legally substantiated authorization of Congress, granted by a two-thirds vote of all its members, in which case the pre-trial proceedings will be the responsibility of the Criminal Division ("Sala Penal"), and if the latter rules in favour of indictment, the case will be tried by the other divisions, without subsequent appeal;

(f) To rule, in sole instance, on charges of criminal responsibility, at the request of the Attorney General of the Republic, following indictment in the Criminal Division, against the Comptroller General of the Republic, magistrates of the Superior District Courts, the Ombudsman, magistrates of the National Electoral Court and Superintendents appointed by law, for offences committed in the exercise of their functions;

(g) To settle litigation stemming from government contracts, negotiations and concessions and from the administrative claims to which the decisions of the Government give rise;

(h) To decide boundary disputes between departments, provinces, sections and cantons.

Constitutional Court

167. The Constitutional Court is independent and subordinate only to the Constitution. It sits in the city of Sucre. It is composed of six judges who form a single division and are appointed by the Congress, by a two-thirds vote of the members present.

168. To be a judge of the Constitutional Court it is necessary to satisfy the same conditions as for appointment to the Supreme Court. Judges hold office for a personal nonextendable term of ten years and may be reelected after the expiration of a period equal to that during which they served.

169. The criminal prosecution of judges of the Constitutional Court for offences committed in the exercise of their functions is governed by the rules established for justices of the Supreme Court.

170. The Constitutional Court is empowered to take cognizance of and decide:

(a) In sole instance, questions of pure law concerning the unconstitutionality of laws, decrees and non-judicial orders of any kind. If the action is abstract and remedial, it may be brought only by the President of the Republic, a senator or deputy, the Attorney General or the Ombudsman;

(b) Conflicts of jurisdiction and disputes between the public authorities, the National Electoral Court, the departments and the municipalities;

(c) Challenges by the Executive to decisions of the chambers, prefects and municipalities;

(d) Appeals against levies, taxes, charges, patents, duties or contributions introduced, altered or abolished in contravention of the provisions of the Constitution;

(e) Appeals against decisions of the Legislature or one of the chambers when such decisions affect one or more specific rights or guarantees, whoever the persons affected;

(f) Direct appeals for annulment under Article 31 of the Constitution;

(g) Reviews of applications for amparo and habeas corpus;

(h) When consulted by the President of the Republic, the President of the Congress or the President of the Supreme Court of Justice on the constitutionality of draft laws, decrees and orders or of laws, decrees and orders applicable to a specific case. The opinion of the Constitutional Court is binding on the consulter;

(i) The constitutionality of treaties and conventions with foreign countries and international organizations;

(j) Requests relating to proceedings in connection with the reform of the Constitution.

171. There is no further appeal against the decisions of the Constitutional Court. A decision which declares a law, decree or any other kind of non-judicial order unconstitutional makes it inapplicable and has full effect for all. A decision which relates to a disputed subjective right will be restricted to a declaration of its inapplicability in the case in question. Unless the decision otherwise provides, the parts of the law, decree or other order not tainted by

unconstitutionality remain in effect. A ruling of unconstitutionality does not affect previous rulings which are considered res judicata.

Judicature Council

172. The Judicature Council is the Judiciary's administrative and disciplinary body. It sits in the city of Sucre. The Council is presided over by the President of the Supreme Court of Justice and consists of four members, called Counsellors of the Judicature, who hold the title of Abogado en Provision Nacional and have capably practised their profession or held a university professorship for a period of ten years. The counsellors are appointed by the Congress, by a two-thirds vote of the members present. They hold office for a ten-year term and may not be reelected until after the expiration of a period equal to that during which they served.

173. According to Article 123, "the powers of the Judicature Council are as follows:

(a) To propose to the Congress lists for the appointment of justices of the Supreme Court, and to the latter lists for the appointment of magistrates of the Superior District Courts;

(b) To propose to the Superior District Courts lists for the appointment of judges, notaries and property right registrars;

(c) To administer the judicial roster and exercise disciplinary authority over the magistrates, judges and court officials, in accordance with the law;

(d) To prepare the annual budget of the Judiciary. To implement the budget in accordance with the law and under treasury supervision".

Other jurisdictions recognized by law

174. The Executive performs certain jurisdictional functions, other than those reserved to the Judiciary, which derive from its own administrative activity. These jurisdictional functions, though governed by special laws and not by the Constitution, are related to regimes dealt with in the latter, such as those applicable to the armed forces, the peasantry, labour and the national finances. On the other hand, they are subordinate to the Executive, which is responsible for public administration, and are therefore a matter of public order, like the administration of justice.

175. Military jurisdiction. Article 9 of the Military Judicial Organization Act of 22 January 1976 states that the military jurisdiction is "the power granted by the law to the military judicial authorities and military courts to administer justice in criminal cases for offences defined in the Military Penal Code or brought before them under special laws".

176. As regards place, "the military courts exercise jurisdiction over offences committed in service, or in connection therewith, in barracks, camps, forts, on marches, in columns, in vehicles, buildings, stores, farms, offices, outbuildings, workshops, foundries, armouries, depots, arsenals and military institutions, on board naval vessels, in naval and air bases, on aircraft

belonging to the air force and in other similar places". As regards persons, "serving members of the armed forces and civilian employees of a military institution, members of the armed forces who have retired, are on indefinite leave or have been discharged, and retired former civilian employees of the armed forces, for up to one year after becoming inactive, are subject to military jurisdiction for offences under Chapter 1, Title 1 of Book 3 of the Military Penal Code".

177. The authorities competent to order the trying of these offences are: the Ministry of Defence, the Commander-in-Chief of the Armed Forces, the force commanders, the Inspector General and the commanders of the large units. The relevant courts are: the Permanent Court of Military Justice and the Supreme Court of Military Justice. Both have national jurisdiction. The former hears and decides cases in the first instance, while the latter has an appeals and review division and an annulment division and decides in sole instance.

178. In time of war, the temporary war councils and supreme war councils perform the functions which, in time of peace, are performed by the Permanent Court and the Supreme Court of Military Justice respectively.

179. Concerning offences against the security of the State, Article 114 of the Penal Code states:

> "Whoever, without the knowledge or influence of the government, commits a hostile act against any foreign power, with the result that Bolivian nationals abroad are exposed to harassment or reprisals or diplomatic relations are broken off, shall be punished by from two to four years' deprivation of liberty.
>
> Whoever publicly insults the flag, coat of arms or anthem of a foreign country shall be punished by from three months' to one year's imprisonment."

180. Labour Judicature. The S.D. of 2 March 1940 established the Labour Judicature and set up the labour courts on the basis of the district offices of the National Department of Labour to exercise jurisdiction in the first instance over litigation arising from the application of the labour and social security legislation and the terms and conditions of employment contracts. It also set up the National Labour Court in the centre of government to hear appeals against decisions of the labour courts.

181. D.L. 16.896 of 25 July 1979 introduced the so-called Procedural Labour Code which laid down the procedures to be followed in ordinary social proceedings and in special proceedings for errors of law, deprivation of trade union rights, declaratory rulings on rights and recovery of trade union assets. According to Article 9 of the Code, the Labour Judicature "decides disputes arising out of individual and collective employment contracts and the application of the social security and public housing legislation, complaints of infringement of the social and industrial hygiene and safety legislation...".

182. Article 6 gives the labour courts jurisdiction over labour and social security matters in the first instance, the National Labour and Social Security Court jurisdiction in the second instance, and the Supreme Court of Justice jurisdiction for purposes of judicial review. According to Articles 8 and 10,

this judicature forms part of the judicial power and its staff are included in the judicial career and roster established under the Judicial Organization Act.

183. Article 33.2 of the new Judicial Organization Act states that "in each department the National Labour and Mining Courts and the administrative and tax courts shall be incorporated with the Superior Courts to form the Social, Mining and Administrative Division".

184. Agrarian and Rural Labour Judicature. The National Agrarian Reform Service was set up to implement the provisions of the Agrarian Reform Act D.L. No. 03464 of 2 August 1953 and has jurisdiction over the whole of the national territory. The ordinary courts may not review or modify, still less annul the decisions of the Agrarian Judicature "whose rulings constitute legal, proven, irremovable and definitive right" (Articles 175 and 176 of the Constitution).

185. The National Agrarian Reform Service consists of the President of the Republic, who is its highest authority under Article 96.24, the National Agrarian Reform Council, with headquarters in La Paz, the highest instance of the Agrarian Judicature, the agrarian courts in the departments and provinces, the rural councils in the municipal sections, and the rural inspectors who perform tasks assigned to them by the agrarian courts (Article 2, D.L. No. 03471 of 27 August 1953).

186. S.D. No. 03256 of 28 November 1952 established the rural labour courts with jurisdiction over the following matters:

(a) disputes between agricultural employers and agricultural workers;

(b) the interpretation and performance of collective and individual contracts of employment concluded between agricultural employers and agricultural workers;

(c) complaints concerning the dismissal of tenant farmers, farm labourers, day labourers and rural workers in general and related cases of eviction;

(d) non-fulfilment of labour obligations on the part of employers and rural workers.

187. S.D. No. 03281 of 10 December 1952 laid down the procedures and instances to be followed in the rural labour courts whose decisions may be appealed to the National Labour Court.

188. The S.D. of 18 December 1996 abolished the rural boards and set up in their place the agrarian circuit courts appointed by the National Agrarian Reform Council and responsible for hearing complaints concerning the voluntary and compulsory or contested allocation of land, settling boundary disputes between the big estates and peasant communities and deciding issues relating to the formalities and implementation of the Agrarian Reform Act. These courts consist of a qualified lawyer ("abogado" or "licenciado en derecho") acting as judge, a secretary and one or more topographic surveyors. In agrarian proceedings, the peasant unions may appoint a spokesman or representative to the area agrarian circuit court.

189. The agrarian and rural labour regime of the Constitution has been amplified in the recently adopted reforms. The new Article 171 states that within the framework of the law, the social, economic and cultural rights of the indigenous peoples living on the national territory, especially those relating to the original community lands, are recognized, respected and protected, and that the use and sustainable development of the natural resources and the identity, values, languages, customs and institutions of the indigenous peoples concerned are guaranteed.

190. The State recognizes the juridical personality of the indigenous and peasant communities and of the peasant associations and trade unions. The natural authorities of the indigenous and peasant communities may exercise administrative functions and apply their own rules as an alternative means of settling disputes, in accordance with their customs and procedures, provided that they are not contrary to the Constitution or the law. The law will ensure the compatibility of these functions with those of the State powers.

191. Controlled substance area courts. The Coca and Controlled Substances Regime Act (Law No. 1008 of 19 July 1988) established the special judicature of the controlled substance area courts to try cases involving offences defined and sanctioned in the Act. There are three judges and the courts operate as courts of first instance in the departmental capitals with national jurisdiction. They are subordinate to the Superior District Courts (Article 83). These judges hear in plenary proceedings (since there are no summary proceedings in these courts) and rule in the first instance on cases brought before them by the Special Anti-Narcotics Agency which takes over criminal investigation department (CID) proceedings. They may also investigate the source of the fortunes of the drug syndicates and make weekly visits to penitentiaries (Article 85).

192. Decisions may be appealed to the Superior District Court and, if they are not, will be reviewed automatically by that court whose hearing orders will be mandatorily reviewed by the Supreme Court of Justice, to which the parties may appeal in the third and last instance (Article 121).

Institutions for the protection of the public

193. The reformed Constitution of 12 August 1994 introduces another fundamental institution for the protection of human rights in Bolivia, namely the Ombudsman, as well as modernizing the police regime and the Office of the Attorney General.

194. The Ombudsman. The Ombudsman's task is to ensure that personal rights and guarantees are effective and respected over the entire range of administrative activity of the public sector. He is also responsible for protecting, promoting and disseminating information on human rights.

195. The Ombudsman does not receive instructions from the authorities. The Legislature's budget includes an appropriation for the operation of this institution. To serve as Ombudsman it is necessary to be at least thirty-five years old and meet the requirements for deputy, except that concerning nomination by a political party.

196. The Ombudsman is elected by the National Congress, by a two-thirds vote of the members present. He may not be indicted, prosecuted or detained for exercising his functions, except where an offence has been committed.

197. The Ombudsman holds office for a term of five years and may be reelected once only.

198. The position of Ombudsman is incompatible with engagement in any other remunerated public or private activity, except university teaching.

199. The Ombudsmen is empowered to institute proceedings for unconstitutionality, direct annulment, amparo and habeas corpus, without the need for authorization.

200. In the performance of his duties, the Ombudsman has free access to detention centres, prisons and other places of confinement.

201. Public authorities and officials must provide the Ombudsman with such information as he may request in connection with the performance of his duties.

202. If his request does not meet with a satisfactory response, the Ombudsman must bring the matter to the attention of the legislative chambers.

203. The Ombudsman gives an account of his activities to the National Congress at least once a year, in the form prescribed by law, and may be summoned before any of the committees of the legislative chambers, in connection with the exercise of his functions.

204. Attorney General's Office. The purpose of the Attorney General's Office is to promote the dispensation of justice and defend legality and the interests of the State and society, in accordance with the Constitution and the laws of the Republic. The Attorney General's Office represents the state and society in the sphere of the law. Its functions are performed by committees appointed by the legislative chambers, by the Attorney General and by other officials designated by law.

205. The Attorney General's Office is responsible for directing criminal investigation department proceedings. The Attorney General of the Republic is appointed by the National Congress by a two-thirds vote of the members present. The Attorney General's Office has its headquarters in the city of Sucre.

206. The Attorney General of the Republic has a ten-year term of office which cannot be extended. He may be reelected following the expiration of a period equal to that during which he held office. He may not be removed from office except by virtue of a sentence of conviction, after being indicted by the Chamber of Deputies and tried in sole instance in the Chamber of Senators. At the time of indictment, the Chamber of Deputies shall suspend the accused from his duties.

207. To become attorney general it is necessary to possess the same qualifications as those needed to become a justice of the Supreme Court.

208. The Attorney General of the Republic is required to give an account of his activities to the Legislature at least once a year. He may be summoned before the committees of the legislative chambers and coordinates his functions with the Executive.

209. National Police. As a public force, the National Police has the specific task of defending society and preserving public order and enforcing the law throughout the national territory. It performs the police function comprehensively and under a single command, in conformity with its organization act and the laws of the Republic.

210. As an institution, it does not engage in debate or participate in party political activities, but its members may individually enjoy and exercise their rights as citizens in accordance with the law. To be appointed Chief of National Police it is necessary to be Bolivian by birth and a general of the institution and to meet all the requirements laid down by law.

IV. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

211. The fundamental rights and duties of the individual are proclaimed in Title 1 of Part 1 of the Constitution.

(a) Article 5. No type of servitude is recognized and no one shall be compelled to render personal services without his full consent and fair compensation. Personal services may be demanded only when so established by law.

(b) Article 6. Every human being has legal personality and capacity, in accordance with the law. He enjoys the rights, freedoms and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other.

The dignity and freedom of the person are inviolable. To respect and protect them is a primary duty of the State.

(c) Article 7. Every person has the following fundamental rights, in accordance with the laws which regulate the exercise of those rights:

(a) To life, health and safety;

(b) To freely express his ideas and opinions, by any means of dissemination;

(c) To assemble and to associate for lawful purposes;

(d) To work and to engage in commerce, industry or any other lawful activity, provided no harm is done to the common welfare;

(e) To receive an education and to acquire culture;

(f) To teach under the supervision of the State;

(g) To enter, remain in, pass through and leave the national territory;

(h) To make petitions, individually or collectively;

(i) To own private property, individually or collectively, provided it fulfils a social function;

(j) To a fair remuneration for his labour, which will provide himself and his family with an existence worthy of a human being;

(k) To social security, in the form determined by this Constitution and the law.

(d) Article 8. Every person has the following fundamental duties:

(a) To obey and comply with the Constitution and the laws of the Republic;

(b) To work, according to his capacity and capabilities, in some socially useful activity;

(c) To acquire at least an elementary education;

(d) To contribute, in proportion to his economic capacity, to paying for the public services;

(e) To care for, nourish and educate his minor children and to protect and support his parents if they are ill, destitute or otherwise in need.

(f) To perform any civic or military service required by the nation for its development, defence or preservation;

(g) To cooperate with the organs of the State and the community in social service and security;

(h) To safeguard and protect the property and interests of the community.

(e) Article 9. No one may be arrested, detained or imprisoned except in the cases and according to the forms established by law; for the execution of the respective order it is required that this be issued by competent authority and served in writing.

A person may not be held incommunicado except in obviously serious cases and never for more than twenty-four hours.

(f) Article 10. Any offender caught in flagrante delicto may be arrested by anyone, even without a warrant, for the sole purpose of bringing him before an authority or competent judge, who must examine him within twenty-four hours at the most.

(g) Article 11. Wardens of prisons shall not admit anyone for detention, arrest or imprisonment without recording the warrant in their register. They may nevertheless admit to the prison precincts those placed under arrest, for the purpose of bringing them before the competent judge within twenty-four hours.

(h) Article 12. Any kind of torture, coercion, extortion or other form of physical or moral violence is prohibited, under penalty of immediate removal

from office and without prejudice to the sanctions that may be incurred by anyone who applies, orders, instigates or consents to them.

(i) Article 13. Assaults on the person render the immediate perpetrators responsible, and the fact that in committing the offence they obeyed the orders of a superior shall not serve as an excuse.

(j) Article 14. No one may be tried by special commissions nor turned over to judges other than those designated before the offence was committed nor shall he be compelled to testify against himself in a criminal trial or against blood relatives up to the fourth degree inclusive, or by affinity up to the second degree, as reckoned by civil law.

(k) Article 15. Public officials who, without a state of siege having been declared, take measures for the persecution, confinement or banishment of citizens, and have these measures carried out, and those who close printing establishments or other means of free expression of thought and resort to depredation or other form of abuse shall be subject to payment of damages, whenever it is proved by civil suit, which may be independent of any corresponding criminal action, that such measures or steps were taken in violation of the rights and guarantees established by this Constitution.

(l) Article 16. An accused person is presumed innocent until his guilt has been proved.

The right of defence of the person on trial is inviolable.

From the moment of his detention or imprisonment, a person being held has the right to be assisted by a defender.

No one may be sentenced without first having been heard and judged in a legal trial, and no penalty may be suffered unless it has been imposed by final sentence and by a competent authority.

A criminal conviction must be based on a law in effect prior to the trial, and subsequent laws may only be applied if they are more favourable to the accused.

(m) Article 17. The penalties of infamy and civil death do not exist. Assassination, parricide and treason are punishable by thirty years' imprisonment, without the right of pardon. Treason is defined as complicity with the enemy when the country is in a state of foreign war.

(n) Article 18. Any person who believes that he is being unduly or illegally prosecuted, detained, tried or imprisoned may appear, in person or through anyone acting in his name, with or without a notarized power of attorney, before the Superior Court of the District or before any Juez de Partido, at his choice, to demand that legal formalities be followed. At places where there is no Juez de Partido, this may be done before a Juez Instructor.

The judicial authority shall immediately fix a day and hour for a public hearing, order that the defendant be brought before him. With this order a personal summons or notification shall be made to the office of the authority cited, and such order shall be obeyed, without objection or excuse, by such

authority and by those in charge of a jail or place of detention, who after being summoned may not disobey on grounds of higher orders.

In no case may the hearing be suspended. After the facts have been examined, the judicial authority shall issue a judgement ordering freedom of the accused or the correction of legal defects or placing the offender at the disposal of a competent judge. The decision must be carried out forthwith. The decision rendered may be appealed for review by the Supreme Court of Justice, within twenty-four hours, but without such appeal having the effect of suspending the execution of the judgement.

If the defendant after attending the hearing leaves before the judgement is pronounced, he shall be validly notified within the courtroom. If he does not attend, the hearing will be held in absentia and after the explanation of the offender or his representative has been heard, judgement will be rendered.

Public officials or private persons who resist judicial decisions, in the cases covered by this article, shall be brought, by order of the authority who heard the habeas corpus proceedings, before the criminal judge for trial as a violator of constitutional guarantees.

Any judicial authority who fails to act in accordance with the provisions of this article shall be subject to the sanctions prescribed by Article 127.12 of this Constitution.

(o) Article 19. In addition to the right of habeas corpus, to which the preceding article refers, there is the recourse of amparo against the illegal acts or undue omissions of officials or private individuals that restrict, deny or threaten to restrict or deny the rights and guarantees of the person recognized by this Constitution and the laws.

An application for amparo may be made by the person who considers himself aggrieved, or by another person acting in his name with sufficient legal power, to the Superior Court in the capital of a department or to a Juez de Partido in the provinces, in the most summary form. The Attorney General's Office may also maake such an application directly whenever it is not or cannot be made by the person affected.

The authority or person accused shall be summoned in the manner indicated in the preceding article for the purpose of giving information and, if pertinent, of presenting the action taken concerning the act denounced, within a maximum period of forty-eight hours.

The final decision shall be rendered at a public hearing immediately upon receipt of the testimony of the person accused and, in default thereof, it shall be made on the basis of the evidence offered by the petitioner. The judicial authority shall examine the competency of the official or the acts of the private individual, and if the denunciation is found true and effective the amparo requested will be granted, provided there is no other means or legal recourse for the immediate protection of the rights and guarantees restricted, suppressed nor threatened, and the decision is to be referred to the Supreme Court of Justice within twenty-four hours for review.

The prior rulings of the judicial authority and the final decision granting amparo are to be executed immediately and without objection, the provisions of the preceding article being applicable in the event of resistance.

212. Other recognized guarantees

(a) Private papers and correspondence are inviolable and may not be seized except in cases prescribed by law and by written order of competent authority setting forth the reasons therefor. Seized or intercepted legal documents shall have no legal effect (Article 20);

(b) No public authority nor any person or organization may intercept private conversations or communications by means of an installation which will control or centralize them.

Every house is an inviolable asylum; at night it shall not be entered without the consent of the person who inhabits it, and in the daytime entrance thereto shall only be allowed on written order of a competent authority setting forth the reasons therefor, except in case of flagrante delicto (Article 21);

(c) Private property is guaranteed, provided that the use made thereof is not prejudicial to the collective interest.

Expropriation may be effected for reasons of public benefit or when property does not fulfil an authorized social purpose, subject to fair compensation.

Confiscation of property shall never be used for the purpose of punishing political offences (Articles 22 and 23);

(d) Foreign subjects and enterprises are subject to Bolivian laws, and in no case may they invoke exceptional circumstances or have recourse to diplomatic claims.

Within fifty kilometres of the frontiers foreigners may not acquire or possess, under any title, soil or subsoil, directly or indirectly, individually or as a company, under penalty of forfeiture to the State of the property acquired, except in cases of national necessity so declared by special law.

No tax is obligatory unless it has been established in accordance with the provisions of this Constitution. Those prejudiced may bring proceedings before the Supreme Court of Justice against any illegal taxation. Municipal taxes are obligatory when levied in accordance with the principles laid down in this Constitution.

Taxes and other public charges are equally obligatory on all. Their imposition, distribution and repeal shall be general in character and must be determined on the basis of equal sacrifice on the part of the taxpayers, proportionally or progressively, according to the circumstances (Articles 26 and 27);

(e) No one shall be compelled to do what the Constitution or the laws do not require, or to deprive himself of that which they do not prohibit. Those who

violate constitutional rights and guarantees shall be subject to ordinary jurisdiction.

The declarations, rights and guarantees enumerated in this Constitution shall not be taken as a denial of other rights and guarantees not proclaimed therein which emanate from the sovereignty of the people and from the republican form of government.

The public powers may not delegate the powers conferred on them by this Constitution nor grant to the executive power any others than are expressly authorized herein.

The acts of those who usurp functions not belonging to them shall be null and void, as shall also the acts of those who exercise jurisdiction or power not emanating from the law (Articles 30 and 31);

(f) The law shall provide only for the future and shall have no retroactive effect, except in social matters when expressly so stated and in criminal matters when it benefits the offender.

213. Concerning nationality and citizenship, Articles 36 to 39 state that the following are Bolivians by origin: those born in the territory of the Republic, except for children of foreigners who are in Bolivia in the service of their government; those born in a foreign country of a Bolivian father or mother, by the sole act of taking up residence in the national territory or of registering in a consulate, while the following are Bolivians by naturalization:

(a) Spaniards and Latin Americans who may acquire Bolivian nationality without renouncing that of their origin, whenever, by reciprocity, there are conventions on plural nationality with their respective governments;

(b) Foreigners who having resided for two years in the Republic declare their intention of acquiring Bolivian nationality and who obtain a certificate of naturalization according to law. The period of residence is reduced to one year in the case of foreigners who find themselves in the following circumstances:

(i) Have a Bolivian spouse or children;

(ii) Are engaged in regular agricultural or industrial work;

(iii) Are engaged in educational, scientific or technical activities.

(c) Foreigners who perform military service at the legally required age.

(d) Foreigners who for their service to the country obtain it from the Chamber of Senators.

214. A Bolivian woman married to a foreigner does not lose her citizenship. A foreign woman married to a Bolivian acquires her husband's nationality, provided she resides in the country and indicates her consent; and she does not lose it in the event of widowhood or divorce.

215. Bolivian nationality is lost by acquiring foreign nationality, but it may be regained merely by becoming domiciled in Bolivia, with the exception of those who adopt the system of plural nationality under conventions that Bolivia has signed.

216. Citizenship consists of:

(a) participating as a voter or as an elected official in the formation or exercise of the public powers;

(b) the right to hold public office, with no other requirement than that of fitness, save for the exceptions established by law.

217. Citizens include all Bolivians, male and female, over twenty-one years of age, or eighteen if married, regardless of their degree of education, their occupation or their income.

218. The rights of citizenship are suspended:

(a) for taking up arms or rendering services in an enemy army in time of war;

(b) for defalcation of public funds or declared fraudulent bankruptcy, with conviction and sentence to corporal punishment;

(c) for accepting a foreign government position, without permission of the Senate, except for posts and missions of international, religious, university and cultural organizations in general.

Special protection regimes

219. Relations with the Catholic Church. According to Article 3, the State recognizes and upholds the Roman Catholic Apostolic Religion. It guarantees the public exercise of any other worship. Relations with the Catholic Church are governed by concordats and agreements between the Bolivian State and the Holy See. The property of the Church, of religious orders and congregations, and of institutions engaged in educational, welfare and charitable activities enjoys the same rights and guarantees as that of private individuals (Article 28).

220. Social regime:

(a) Article 156. Labour is a duty and a right and constitutes the basis of the economic and social order.

(b) Article 157. Labour and capital enjoy the protection of the State. The law shall regulate their relationship by establishing rules concerning individual and collective contracts, minimum wages, maximum working hours, work by women and minors, paid weekly and annual days of rest, holidays, bonuses, premiums and other systems of sharing in the profits of an enterprise, compensation for length of service, discharge, vocational training, and other workers' social benefits and protection.

It is a function of the State to create conditions which will guarantee opportunities for work, stable employment and fair remuneration for all.

(c) Article 158. The State has the obligation to defend human capital by protecting the health of the population; it shall ensure the continuity of its means of livelihood and the rehabilitation of disabled persons; it shall also strive for the improvement of the living conditions of the family as a group.

The social security systems shall be based on principles of universal coverage, solidarity, uniformity of treatment, economy, timeliness and effectiveness, embracing the contingencies of illness, maternity, occupational hazards, disability, old age, forced shutdowns, family allowances and social housing.

(d) Article 159. Freedom of employers to form associations is guaranteed. Unionization is recognized and guaranteed as a means of workers' protection, representation, welfare, education and culture, as is union immunity as a guarantee to union officials while carrying out the legal activities connected with their mandate, for which they may not be prosecuted or arrested. The right to strike is likewise established, as the legal right of workers to suspend work in defence of their rights, after complying with the legal formalities.

(e) Article 160. The State, through appropriate legislation, shall promote the organization of cooperatives.

(f) Article 161. The State, through courts or special agencies, shall settle disputes between employers and workers or employees, as well as those arising in connection with social security.

(g) Article 162. Social provisions of law are matters of public order. They will be retroactive whenever the law expressly so indicates.

The rights and benefits granted to workers may not be waived, and any agreement to the contrary or intended to evade their effects shall be null and void.

(h) Article 163. Persons declared meritorious (los Benemeritos de la Patria) deserve the gratitude and respect of the citizenry and the public powers, for their persons and their legally acquired property. They shall be given preference for positions in the public administration or in independent and semi-independent entities, according to their capacities. In case of forced unemployment, or if they are lacking in means of livelihood, they shall receive a lifetime pension from the State according to law. They may not be removed from office except in case of a legal impediment established by a final judgement. Anyone who disregards this right shall be obliged to pay personal indemnity to the aggrieved meritorious person, as pecuniary and moral damages assessed by a court.

(i) Article 164. Social service and welfare are functions of the State, and the conditions relating thereto shall be prescribed by law. The rules relating to public health are coercive and obligatory.

221. Agrarian and rural labour regime. The agrarian and rural labour regime has been considerably modified by extending the recognized rights of the nation's broad peasant masses. Within the framework of the law, the social, economic and cultural rights of the indigenous peoples living on the national territory, especially those relating to the original community lands, are recognized, respected and protected, by guaranteeing the use and sustainable development of the natural resources and the identity, values, languages, customs and institutions of the indigenous peoples concerned. The State recognizes the juridical personality of the indigenous and peasant communities and of the peasant associations and trade unions. The natural authorities of the indigenous and peasant communities may exercise administrative functions and apply their own rules as an alternative means of settling disputes, in accordance with their customs and procedures, provided that they are not contrary to the Constitution or the law. The law will ensure the compatibility of these functions with those of the State powers.

222. Family regime:

(a) Article 193. Matrimony, the family and maternity are under the protection of the State.

(b) Article 194. Matrimony rests on the equality of the rights and duties of the spouses.

Free or de facto unions that meet the conditions of stability and singularity and that are maintained between persons having the legal capacity to marry produce effects similar to marriage, with respect to both the personal and the property relations of the parties living together and the children born to them.

(c) Article 195. All children, without distinction as to origin, have equal rights and duties with respect to their parents.

Filiation may be established by any means conducive to proof thereof, in accordance with the system specified by law.

(d) Article 196. In cases of the separation of spouses, the situation of the children shall be determined by taking into account their best care and their moral and material interests. Agreements entered into and proposals made by the parents may be accepted by the judicial authorities provided they are in conformity with these interests.

(e) Article 197. The authority of the father and of the mother, as well as of a guardian, is established in the interests of children, minors and incompetents, in harmony with the interests of the family and society. Adoption and related institutions shall likewise be organized for the benefit of minors.

A special code shall regulate family relations.

(f) Article 198. The law shall determine what property shall comprise a family's unattachable and inalienable assets (patrimonio familiar), and also family allowances under the social security system.

(g) Article 199. The State shall protect the physical, mental and moral health of children, and shall uphold the rights of children to a home and to education.

A special code shall regulate the protection of minors in harmony with the general legislation.

223. Electoral regime. This regime was also modified in the process of reform introduced by Law No. 1585. The first chapter of Title 9 states that: "All Bolivians who have reached eighteen years of age are voters, regardless of their degree of education or occupation, with no further requirement than obligatory inscription in the Electoral Register. Foreigners may vote in municipal elections under the conditions prescribed by law. Citizens who meet the requirements laid down in the Constitution and the laws may be elected to public office".

224. As far as the political parties are concerned, Article 222 states that:

> "Citizens have the right to organize themselves in political parties in accordance with the provisions of this Constitution and the Electoral Law. The people are represented through the political parties or fronts or coalitions formed by parties which may put up candidates for president and vice-president of the Republic, senators, deputies and councillors.
>
> Political parties shall be registered and have their legal personality recognized by the National Electoral Court."

225. The electoral organs are: the National Electoral Court, the Departmental Courts, the electoral courts, the election boards at polling places, the electoral notaries and other officials designated by law. The autonomy, independence and impartiality of the electoral organs is established and guaranteed.

V. PRINCIPAL PROBLEMS OF THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

226. It will be seen that the Constitution formally protects all the rights recognized in the Universal Declaration of Human Rights and especially in the International Covenant on Civil and Political Rights, together with those proclaimed in such regional protection instruments as the American Convention on Human Rights.

227. Bolivia has been a signatory to the International Covenant on Civil and Political Rights and the Optional Protocol thereto since 12 November 1982. It is also a signatory to the American Convention on Human Rights and has recently recognized its jurisdiction in disputes. Furthermore, it has signed the Geneva Conventions on Humanitarian Law of 10 June 1977 and their two Additional Protocols of 8 June 1984. On 22 October 1970 it ratified the International Convention on the Elimination of All Forms of Racial Discrimination, in 1989 the Convention on the Elimination of All Forms of Discrimination against Women, and on 9 May 1982 the Convention relating to the Status of Refugees and its Protocol. It has also ratified Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, on 4 January 1966, Convention No. 98 concerning the Right to Organise and to Bargain Collectively, Convention No. 107 concerning Indigenous and Tribal Populations, and Convention

No. 111 concerning Discrimination in Respect of Employment and Occupation, among others. The provisions of these human rights protection instruments ratified by Bolivia, being fully consistent with the terms of the Constitution, rank as law and may be invoked before any national court, in accordance with Articles 59.12 and 59.29 of the Constitution.

228. Nevertheless, despite this broad recognition of fundamental rights by the domestic legal system, the Bolivian Government acknowledges that serious obstacles to the practical application of these instruments still persist and are still preventing the benefits of the Constitution from being fully and generally enjoyed by Bolivia's citizens. This is mainly attributable to the structural poverty, cultural differences and the still slow process of entrenchment of democracy. This recognition and concern have led to the great efforts being made by the Government of Mr. Sanchez de Lozada, together with the Legislature, to speed up the promulgation of laws and constitutional changes designed to bring about a political, economic and social transformation that will make the exercise of human rights more effective and Bolivian society less unjust.

229. A particularly distressing problem with which Bolivia is confronted is that of the shortcomings of the administration of justice of which society has been especially critical.

230. Delay in settling disputes is one of the fundamental problems of the administration of justice. It is doing considerable harm to the image and credibility of the Judiciary and causing serious injury to the parties, injury which may assume dramatic proportions where proceedings for the alleged commission of an offence are involved.

231. Eighty per cent of the total of 6000 detainees held throughout the country have not received an executory sentence. To this it should be added that 33.82 per cent of criminal proceedings take from 2 to 5 years, 12.43 per cent from 5 to 10 years, 4.62 per cent from 10 to 15 years, 0.58 per cent from 15 to 20 years and 0.29 per cent more than 20 years. Consequently, an absolute majority of persons accused is suffering the fate of "punishment in advance", being held in prison for at least two or three years before being finally tried and possibly acquitted. Judges, lawyers and prosecutors, on the one hand, and litigants and detainees, on the other, are all well aware of the excessive delays in the conduct of proceedings attributable to the Judiciary, even though the root causes of this serious problem may not be so obvious.

232. Within the Judiciary, the causes of the tardiness in settling disputes include the negligence of the operators of the system (judges, lawyers, prosecutors) and the officials of the Judiciary at all levels, since in general they may fail to attend hearings or may adopt perfectly unnecessary delaying tactics (procedural pleas or interlocutory questions), for example by abusing the constitutional right of amparo. This indicates the existence of an inefficient penal system with too many procedural remedies, combined with entrenched bureaucracy within the Judiciary.

233. In addition, the views of those who point to the effect of corruption in delaying the administration of justice also deserve attention. In many instances, the parties offer presents to court officers, and even magistrates, to induce them to delay the proceedings.

234. As far as the duration of criminal cases is concerned, the chief delay in the pre-trial proceedings is attributable to the long intervals between hearings (dates set by the judicial authorities for the examination of the case), and to the postponement of proceedings by the judge. This doubtless indicates an excessive judicial workload, but there remains the functional responsibility of both judges and auxiliary personnel for not being more expeditious.

235. With trials also, the main cause of delay is the length of time between hearings, probably for the same reasons as outlined above, but aggravated by a second serious consideration in this stage of the proceedings, namely the shortage of defence counsel. In this connection, although the structural problems of the system of justice were addressed in the constitutional reform of last August, it is necessary to stress the practical importance of related provisions such as S.D. No. 23253 which set up the Public Defence Office, a body specializing in defending citizens brought to trial, free of charge, for the purpose of bringing the administration of justice into proper balance. The results of the proceedings instituted under the Public Defence programme are one of the most important achievements of the recently established Ministry of Justice.

236. The machinery provided for settling disputes on the basis of the judicial apparatus of the State has pointed up a serious problem of access for those of slender means who make up the great majority of the population. However, the problems of access are not restricted to the economic issues, important as these may be, but also involve other more complex aspects such as marginalization and ethno-cultural domination. In fact, given the characteristics of Bolivian society, with its large numbers of coexisting ethnic groups with their own customs, languages and idiosyncrasies, these other aspects are of fundamental importance.

237. In any event, Bolivia having one of the highest rankings for poverty, which is especially acute in the rural areas, the discriminatory factors reinforce this reality, thereby determining a differential approach to the administration of justice which is clearly prejudicial to the weakest elements of the socio-political structure.

238. Those who have to turn to the law to settle a dispute hesitate greatly before bringing an action, since once their problem comes before the courts they have no way of knowing how long the proceedings will last, still less whether at the end there will be a satisfactory outcome, safe from distorting factors unconnected with the details of the dispute.

239. Obviously, the situation is even more difficult when the litigant is badly off (a peasant, a labourer or a slum dweller). In these cases, the risks are even greater since the costs of the proceedings may turn out to be considerably in excess of the value of the object of the action.

240. It is usual to encounter a background of poverty common to the circumstances of all those concerned. For example, in the specific case of drug trafficking offences, it is mainly the socially and economically deprived members of society who end up in prison. Only exceptionally, and because of special features in their prosecution - which ultimately reinforces the previous observation - are the so-called "fat cats" from the privileged strata of society caught and tried.

241. The State Constitution recognizes the principle of free justice in Article 116 according to which "the administration of justice is gratuitous and no charges extraneous to the judicial branch may be imposed on litigants". Although in this way the Constitution aims to make justice accessible to all sectors of society, the reality is different since in societies as poor as that of Bolivia there can be no ignoring the fact that the great majority of the population is not in a position to pay the fees of a competent lawyer for advising them during the proceedings, defray the corresponding costs (stamps, official paper) or bear the indirect expense of a law suit.

242. Finally, these trends are confirmed by the statistics on the frequency of offences resulting in the detention of the persons concerned. Thus, the behaviour that is ultimately criminalized is basically that relating to property and the passing of cheques not covered by funds, all of which is linked with the sectors having the lowest incomes. There is no indication of the system operating similarly when it is a question of behaviour encountered in the better-off groups and sectors of the population, such as "white collar" crime and tax or ecological offences.

Frequency of offences and their relation to marginal groups

Offence	Percentage
Against the security of the State	1.46
Against the public service	1.40
Against public trust (passing cheques not covered by funds)	24.43
Against public safety	5.85
Against the national economy, industry and trade	1.04
Against the family	3.34
Against human life and the person	18.16
Against honour	1.46
Against liberty	0.846
Against morals	9.81
Against property	30.69

243. In the face of this reality, another most important Government contribution is the project to abolish imprisonment for debt and the regulation of pre-trial detention to clear the overcrowded prisons of the victims of a dreadful vestige of mediaeval law which still punishes debtors with imprisonment. As a consequence of the inconsistency between our Constitution and certain civil or administrative procedural mechanisms, hundreds of prisoners continue to be held in detention for months and even years after completing their sentence for not being able to meet their civil obligations. When adopted by parliament, this reform will put an end to a virtual punishment for being poor and set free the approximately 30 per cent of those currently behind bars who are suffering a barbarous and anachronistic injustice.

244. Other very troubling problems concerning human rights and the application of the International Covenant on Civil and Political Rights are those associated with the incompatibility between the provisions of the Constitution and the special legislation to combat drug trafficking. Bolivia and Peru are the two biggest producers of coca leaf, a traditional crop closely bound up with Andean culture. At the same time, coca is the raw material for the production of cocaine hydrochloride which, unfortunately, has a very large consumer market and a high economic value. In these circumstances, Bolivia has had to adopt various legal measures to suppress drug trafficking while preserving the legality of coca leaf cultivation in the zones and on the hectares legally authorized for the use of the indigenous populations.

245. Despite these legislative measures, the Bolivian legal system has suffered constant interference on the part of the international community aimed at achieving certain limited objectives and establishing interdiction mechanisms. The United States of America has set up specialized agencies to monitor illicit activities, principally drug cultivation and processing and, subsequently, drug trafficking and consumption.

246. Since 1962, Bolivia has signed military assistance agreements with the United States which are conditional upon the performance of the Government, particularly as regards the eradication of coca leaf crops. To these must be added other anti-narcotics agreements signed since 1987. Thus, through the application of the treaties in question, the Bolivian judicature has suffered interference in connection with the implementation of the drug traffic control schemes. In fact, on many occasions bilateral economic, police and military relations have been made to depend on these schemes being carried out.

247. This history has not only impeded the operation of the constitutional guarantees and the treaties approved by Bolivia in the area of human rights and the administration of justice but has also prevented effective control of the supply and consumption of drugs in the country, from the standpoint of health protection. At the same time, the international pressures are involving traditional coca leaf growing and consumption in the State's crop eradication policies.

248. For example, as already pointed out, one of the main problems of the administration of justice is the delay in settling disputes which come before the courts. There is a constant and increasing accumulation of files and records and the situation is becoming even worse in the case of illicit drug traffic proceedings because in the implementation of State policies the number of arrests, police operations and seizures has come to be regarded as a symbol of government efficiency, although these activities have had their greatest impact on the marginalized sectors of the population and have led to the congestion of the criminal justice system.

Combating the drug traffic

249. The special drug control legislation is mainly to be found in the Controlled Substances Act (Law No. 1008 of 19 July 1988) and subsequent regulations. This special penal system reflects the problems of the legal system in general: lack of autonomy, budgetary limits, delay in hearing cases, etc. It can even be said that things are getting worse where the prosecution of drug

trafficking offences is concerned because of the distortions inherent in traditional control policies.

250. Firstly, a parallel police agency known as the "Special Anti-Narcotics Force" (FELCN) was established. This was followed in August 1989 by the establishment of the "Mobile Rural Patrol Unit" (UMOPAR). In October 1991, the regulations governing the functions and internal organization of the FELCN were approved. There is much questioning of the activities, operations and actions of these forces trained and supported by the United States. Moreover, on the part of the people there are also serious objections to the functioning of UMOPAR.

251. Special prosecutors, under the authority of the Social Protection Department, have been appointed to carry out drug traffic interdiction tasks which are actually very similar to those carried out by the staff of the Drug Enforcement Administration (DEA).

252. According to Law No. 1008, the functions of the controlled substance prosecutors include directing the activities of the FELCN in handling criminal investigation department proceedings, concluding those proceedings, and preparing the evidence and the application for the detainee to be brought to trial for submission to the Controlled Substances District Courts (Article 92). Among the other functions of the controlled substance prosecutors, the Law mentions supporting criminal investigation department proceedings in the Juzgamiento del Plenario, verifying that the legal terms and time limits have been respected, so as to ensure the prompt administration of justice, and ensuring that the laws or substantive provisions have been correctly applied. To this end, the representative of the Attorney General's Office must appear in the name and on behalf of the State and society in the cases entrusted to him and claim criminal indemnification for the loss or damage caused by the commission of the offences established under the legal system.

253. However, it is objected that the prosecutor's intervention in the fight against drugs is ineffective. There is a power play between the police and the prosecutors which leads to much inefficiency in the collection of evidence and is ultimately reflected in the police investigation. One manifestation of this is the noncompliance with Law No. 1008 as regards the time limits for completing the judicial proceedings. The law allows 48 hours, but this requirement is rarely respected and the process may take up to 6 days. For this reason there is often a lack of coordination between the regular prosecutors and those attached to the FELCN, especially as regards the applications made by the latter in the judicial proceedings and those made by the district prosecutor, since there have been cases of duplication.

254. Law No. 1008 also established the Controlled Substances Area Courts, consisting of three judges, which operate as courts of first instance hierarchically subordinate to the Superior District Courts (Article 83). The Controlled Substances Area Courts are responsible for hearing in full proceedings and deciding in the first instance cases involving controlled substances brought before them by the FELCN. The latter is under the authority of the National Council Against the Wrongful Use of and Illicit Trafficking in Drugs and is responsible for taking up criminal investigation department proceedings (Article 85).

255. The special criminal proceedings begin with the action of the FELCN; then the area controlled substances prosecutor takes the accused's statement. The FELCN and the prosecutor must produce the proofs within 48 hours. There are no pre-trial proceedings. The trial is based on the evidence supplied by the FELCN and assessed by the prosecutor. Formally, the following procedural safeguards are available: remedy of appeal, automatic review, and the review of sentences by the Supreme Court.

256. As regards the characterization of offences, Law No. 1008 conforms with the provisions of the 1988 Vienna Convention, as part of the international strategy to combat the illicit drug traffic. It includes penalties (as a means of preventing and repressing the offence and punishing the offender). In addition, it provides for fines and the seizure and confiscation of the traffickers' assets. Finally, it includes disqualification measures that can be taken against public officials. However, the application of Law No. 1008, with summary procedures and special courts, has created problems for the prison system. Prison overcrowding has been exacerbated, and only 30 per cent of inmates have been convicted.

257. Various problems of a constitutional nature connected with the functioning of the special courts have been repeatedly raised by various sectors of the population, in particular:

- Among other constitutional principles, that of security of the person is being infringed. Anyone may be detained on "suspicion";
- The reversal of the burden of proof (Article 184);
- The non-admission of preliminary issues (Article 188);
- The existence of very harsh and disproportionate penalties. For example, prison terms of more than 30 years, fines and additional penalties prohibited by law;
- The national powers of preventive detention: in general, the application of this measure is consistent with Article 194 of the Code of Penal Procedure. Nevertheless, its implementation is converting it from a precautionary measure into an obligatory requirement because the very specification of the device is turning it into a general measure;
- Finally, the economic discrimination of the bail bond as a requirement for release from custody is preventing the release of the poorest. Moreover, this type of security does not guarantee the presence of those on bail but only indemnification for the damage caused.

258. However, the most serious questions concern the manner in which the interdiction operations are being carried out in coca growing zones such as Chapare in Cochabamba. There are numerous complaints about violations of human rights and excesses perpetrated by the special police forces, particularly against peasant coca leaf producers. Recently, a large-scale police operation in the Chapare zone led to tension on a national scale with protest marches, the blocking of roads and, as a consequence, repressive police measures against

various labour and social organizations opposed to the way in which the campaign against drug trafficking is being conducted.

259. Concerned by these complaints, the President of the Republic, Mr. Sanchez de Lozada, has called for a national dialogue, to include the country's most important elements such as the political parties, the labour and peasant organizations, members of parliament, the press, the Catholic Church, the Human Rights Assembly, the armed forces, the national police and representatives of international organizations, for the purpose of discussing a new policy on drug trafficking. It is hoped to achieve a broad national consensus such as that which made possible the recent reform of the Constitution, with the primary aim of settling the problem of human rights without abandoning the struggle against the drug mafia.

260. In addition, in the Chapare zone the Ministry of Justice has set up a public defenders' office and a human rights office to ensure that the constitutional guarantees of the peasant producers are better protected.

VI. CONCLUSIONS

261. Although much remains to be done in the face of the grave problems with which the country is confronted, the Bolivian Government considers that in recent years significant progress has been made in applying the international human rights conventions and in regulating and supplementing the provisions of the Constitution in order to make the protection of the person more effective within the domestic jurisdiction.

262. Evidence of this is provided by the following closing list of the most important legislation recently adopted, over and above that already discussed.

(a) Minors' Code (Law of 18 December 1992). This law is based on universal principles and reflects social policies oriented towards the care and protection of the minor within the framework of a comprehensive approach. Its main chapters deal with maltreatment, the employment of minors, problems with the law, and national and international adoption;

(b) Judicial Organization Act (Law No. 1455 of 18 February 1993). This act reorganized the Judiciary to ensure its independence as enshrined in the Constitution and as a further means of guaranteeing the application and observance of the principle of legality in the handling of cases;

(c) Office of the Attorney General Act (Law No. 1469 of 19 February 1993). For the first time, Bolivia has an Act whose purpose is to guarantee an effective, responsible and fair system of public prosecution properly representative of the State and society as a whole. According to this act, the fundamental mission of the Attorney General's Office is to protect the rights of the ordinary citizen against possible excesses of the authorities;

(d) Environmental Act (Law No. 1333 of 27 April 1992). Bolivia considers that the protection and defence of the environment form part of the rights of the human being and his habitat, as a means of ensuring the right to life on earth, in the conviction that our country is a true ecological reserve of great importance. Hence the importance of the promulgation of the Environmental Act

and the Ecological Respite Decree which is intended to prevent the irrational exploitation of natural resources;

(e) National Organization for Children, Women and the Family (ONAMFA) established under the Minors' Code. The objectives of this organization are to regulate, guide, monitor and supervise the policies aimed at these sectors of the population. According to Article 287 of the Minors' Code, the principal functions of ONAMFA's National Directorate are: "To approve policies and strategies for the care and protection of children, women and the family... To safeguard the rights of children, women and the family as laid down in the Constitution and other laws and to ensure their effectiveness";

(f) Special rights of the indigenous peoples (Supreme Decrees Nos. 22609, 22610, 22611 and 22612). Bolivia is a nation comprising various indigenous peoples whose ancestry and traditions have permeated our national identity. To safeguard and protect these peoples, Bolivia has granted them special rights, for example by allocating them geographical areas to keep for their exclusive use;

(g) Compulsory education in human rights in schools, military colleges and police academies. The exercise of human rights can only be guaranteed by the conscious participation of the government and the governed which requires the implementation of policies of popularization and continuing education in this field. Accordingly, the Government of Bolivia, by Supreme Decree, has arranged for compulsory instruction in human rights in all the country's schools, military colleges and police academies;

(h) Capitalization Act (Law of 21 March 1994). This law is a fundamental instrument of change adopted during the current financial year. Its purpose is to attract capital, stimulate growth and eradicate poverty by generating jobs. It is hoped that this Act will create economic and financial mechanisms capable of producing the surpluses Bolivia needs for its economic recovery. Under the Act 50 per cent of State enterprises are retained and it is a question of attracting foreign capital for the other 50 per cent to boost and promote the enterprises capitalized;

(i) Popular Participation Act (Law of 20 April 1994). For the first time in the history of Bolivia, this Act establishes the principle of equal distribution per inhabitant of the joint resources from taxation allocated and transferred to the departments, and seeks to correct the historical imbalances between urban and rural areas. The objectives of the Act are set out in Article 10 which states: "This Law recognizes, promotes and consolidates the process of popular participation by bringing together the indigenous, rural and urban communities in the legal, political and economic life of the nation. It endeavours to improve the quality of life of Bolivian men and women by means of a fairer distribution and better administration of public resources. It strengthens the political and economic instruments necessary to perfect representative democracy by facilitating citizen participation and guaranteeing equality of opportunity at the various levels of representation to men and women";

(j) Educational Reform Act (Law of 7 July 1994). This law to democratize the education services was enacted in the light of Bolivia's high illiteracy rate and for the purpose of making free education available to all Bolivians.

According to its provisions, education is a right and duty of every Bolivian, being organized and dispensed with the participation of the whole of society without restriction or discrimination with respect to ethnic background, culture, region, social status, physical, mental or sensory condition, gender, creed or age. The law also states that education is the highest function of the State because it is a right of the people and an instrument of national liberation and because the State has a duty to uphold, direct and oversee it through an extensive school system.

263. Through the Ministry of Justice, the Executive is also drafting numerous laws to complement the process of transformation of Bolivian justice including, in particular: the law on arbitration and the alternative settlement of disputes, the readjustment of procedural time-limits to reality, the setting up of magistrates' courts, the regulations implementing the Ombudsman Act, etc. which will result in the more effective protection and promotion of human rights.

Sentence passed on the dictator Garcia Meza and on ex-justices of the Supreme Court

264. Finally, in the matter of respect for human rights, in April 1993 impunity was dealt a severe blow. For the first time in Bolivia's history, the Supreme Court of Justice tried and condemned a most pernicious military dictatorship which more than any other had violated our people's human rights. The trial of the dictator Garcia Meza was conducted in absolute conformity with the principle of legality embodied in Bolivian positive law. He was sentenced to 30 years' imprisonment without right to pardon.

265. Furthermore, after 104 years of existence of the Responsibilities Act of 1880, the Senate succeeded in concluding responsibility proceedings against two justices of the Supreme Court who were found guilty of corruption and removed from office. This conviction is one more example of progress with Bolivia's plans to clean up its institutions and ensure that justice is properly administered.